

AD
2780
S85
215
v.22

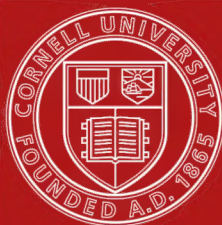
CORNELL
UNIVERSITY
LIBRARY



CORNELL UNIVERSITY LIBRARY



3 1924 092 522 980



Cornell University Library

The original of this book is in
the Cornell University Library.

There are no known copyright restrictions in
the United States on the use of the text.

D 57

XXII

HD

2760

585

U5

v.22

A.297781

X

VOLUME XXII.

INDEX OF WITNESSES.

	Direct.	Cross.	Re- direct.	Re- cross.
Harry S. Montgomery	8823	8830	8845	8846
William M. Crane	8847	8850	8853	8853
Willard R. Collins	8855	8859	8870	.....
John D. Landis	8871	8876	.....	.....
Joseph B. Andrews	8899	8916	.....	.....
Albert Grant Belmer	8922	8929	.....	.....
Franklin Oscar Schoedinger	8943	8950	8960	.....
James Irwin Stephenson.....	8960	8966	8978	8978
Edward W. Greeno	8979	8984	.....	.....
Philander L. Carter	8991	9002	.....	.....
William H. Scobie	9005	9020	9035	9037
William O. Rogers, Jr.	9039	9045	.....	.....
Emanuel Winelanders	9052	9056	9063	.....
Lambert N. Hopkins	9064	9088	9120	9123
Alexis W. Thompson	9127	9145	9165	.....
H. H. Hammond	9170	9182	9189	9189
Ferdinand E. Cutler	9192	9202	9227	.....
William A. Linn	9228	9242	9255	.....
George E. Van Hagen	9256	9264	9273	9274
Frederick De Coningh	9281	9285	.....	.....
William B. Melish	9285	9292	9307	.....

INDEX OF EXHIBITS.

	PAGE.
Defendants' Exhibit No. 145 (for identification).....	8824
“ “ Nos. 146 to 182 inclusive.....	8846

ONE HUNDRED AND TWENTIETH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,
Friday, November 28, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.

Present on behalf of the defendants, MR. REED.

HARRY S. MONTGOMERY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Montgomery?

A. Elizabeth, New Jersey.

Q. What is your occupation?

A. I am in charge of the purchasing department of the Lehigh Valley Railroad.

Q. Where are your offices, Mr. Montgomery?

A. 143 Liberty.

Q. Liberty Street, New York?

A. Liberty Street, New York, yes.

Q. How long have you been in charge of the purchasing department?

A. About eight years.

Q. What kind of steel supplies, if any, does your company buy?

A. Well, that is a pretty broad question. About everything that is made in the line of steel, I judge.

Q. And are those purchases made through your office?

A. Everything, except rail; everything except rail.

Q. Through whose office are the rails purchased?

A. Well, I believe the first vice-president, Mr. Middleton.

Q. Your connection with the rail purchases, I suppose, is largely mechanical?

A. That is all.

Q. The formal order goes through your office, does it?

A. Yes, sir; we issue the formal order to cover his purchase.

Q. The arrangement being made by some other officer?

A. Yes.

Q. You think the vice-president?

A. Yes, I think Mr. Middleton.

Q. Does your company buy plates and sheets?

A. Yes, sir.

Q. Does it buy structural material?

A. Yes.

Q. Both plain and fabricated?

A. Right.

Q. Does it buy splice bars?

A. Yes.

Q. Tie plates?

A. Yes.

Q. Wire?

A. Yes.

Q. Bar steel?

A. Right.

Q. Billets?

A. Yes, sir.

Q. Flues?

A. Yes, sir.

Q. Have you made any effort to obtain the correct figures showing the tonnage of these different products that your company has bought during recent years?

A. Yes, sir.

Q. And the sources from which they were bought?

A. Yes, sir.

(Here five sheets were marked "Defendants' Exhibit No. 145.")

Q. I show you five sheets, collectively marked "Defendants' Exhibit No. 145," and ask you what that is (handing papers to witness.)

A. That is a statement of our purchases of miscellaneous steel products for the past three years, 1911, 1912 and 1913, and of rails for the years 1901 to 1912, inclusive.

Q. What was the reason for limiting the statistics on miscellaneous products to the last three years, Mr. Montgomery?

A. Why—

Q. (Interposing) Didn't you have time to get any more?

A. Why, we could have gotten more, but I thought that was enough.

Q. It was not on account of any request from me that you limited it?

A. No.

Q. Are these statistics that are shown on Exhibit No. 145 correct?

A. As far as I know, barring some clerical error, they were made up by clerks in the office, you know. I simply told them what to get, and took the figures as they gave them to me.

MR. COLTON: You have not offered them in evidence as yet?

MR. REED: No, not yet.

By MR. REED:

Q. Have you examined this Exhibit?

A. I looked it over, sure, and as far as I know it is absolutely correct.

Q. Do the figures accord with your recollection of the facts, in so far as you have examined them?

MR. COLTON: I object to that on the ground it is not shown that the witness has any independent recollection of the facts; on the further ground that the question is leading.

MR. REED: Now, will you answer it, please?

THE WITNESS: What was the question?

(The question was read by the stenographer.)

THE WITNESS: Well, it would be impossible for me to say whether those figures are correct or incorrect. My memory

would not enable me to do anything like that. As far as I know they are absolutely correct. I glanced over them and I did not see anything there that I questioned, except one item, and on that I called the clerk in who made the statement up, and I said to him, "This does not look right," and he went over his figures, where he had great big sheets of figures, and he found he had put in one item twice—a big item.

By MR. REED:

Q. And that was corrected, was it?

A. That was corrected.

Q. Was all this made by one clerk?

A. Two.

Q. Two clerks?

A. Two men.

Q. Are they available as witnesses, Mr. Montgomery?

A. Surely.

Q. What are their names, please?

A. Why, G. C. Kunow was one, and W. B. Hamblin.

Q. And they both live in New York, do they?

A. No; one of them lives in Jersey, and the other one lives out of town somewhere; I do not know where.

MR. COLTON: You do not know the exact addresses?

THE WITNESS: No, I do not know their home addresses.

By MR. REED:

Q. But they are clerks in your New York office, are they?

A. Oh, yes.

Q. How do you buy these miscellaneous steel materials, Mr. Montgomery? Do you buy on annual contracts or do you buy from time to time as you need the material?

A. I do not think there is anything on here (referring to Exhibit No. 145) that is covered by a 1909 contract. Some things are bought on contract by the year, but the great bulk is bought as required, on requisitions.

Q. Before you let your contract or place your order, as the case may be, do you or do you not ask quotations from the different makers and dealers in these products?

A. We do.

Q. Has that been your custom in the past?

A. It has been ever since I have been in the business, except where we have a contract.

Q. And where you make contracts to cover periods of time do you ask quotations before letting the contract?

A. Yes.

Q. Confining your attention now to the quotations on steel products, I wish you would state whether or not the quotations that you receive on them are variant or uniform.

MR. COLTON: Just a moment; I object on the ground, first, that it calls for a conclusion upon a state of facts that may be in the witness' mind and not disclosed to the court, and further, that it calls for a general statement as to all of the steel products, and it is so comprehensive that the witness is likely to be misled in answering.

THE WITNESS: Variant, decidedly.

By MR. REED:

Q. How long has that been so?

A. There are very few things that I can think of that I have ever had uniform prices on, very few.

Q. What are those very few things that you think of?

A. I was thinking of one thing, structural steel. If I am not mistaken—I am only speaking from memory—but if I am not mistaken there have been times when prices on structural steel have been practically uniform.

Q. What kind of times were those?

MR. COLTON: Objected to on the ground that it is not shown that the witness is familiar with conditions in the steel industry, or the character of the times in question.

(The question was repeated by the stenographer.)

THE WITNESS: That is a hard question to answer. I think that during what we call the boom year—what was that, 1906-1907?—when everything was booming, that they were pretty uniform.

By MR. REED:

Q. In times of general depression in business have you found that uniformity?

A. No.

Q. When the mills needed business, have they or have they not been willing to shade prices to get it?

MR. COLTON: I object to that on the ground that it is not shown that the witness has any familiarity with the needs of the different mills in respect to the business, and that he is incompetent to answer the question.

THE WITNESS: Yes, that is absolutely so; when times are dull and the mills need business, they go after it just as anybody else would; the question of profit is not considered as it would be in good times.

By MR. REED:

Q. Have you had a practice of tabulating these quotations that you receive?

A. Yes.

Q. Have you made any effort to get any of those tabulations?

A. Yes, I have.

Q. Just what did you do in that regard?

A. You have got some of them right there, Mr. Reed. I told one of the clerks in the office to get a number of those tabulations. Those are just simply the tabulations of bids. I told him to get a number of them at random; I gave him a list of subjects and this is what is made from it (referring to Exhibit No. 145).

Q. Did you make any selection of those tabulations in order to get those which were favorable to any particular theory or any side of this case?

MR. COLTON: I object on the ground that it is not shown that the witness had anything to do with the particular selection in question.

THE WITNESS: No, sir; these are just as they were brought to me by the clerk who picked them out.

By MR. REED:

Q. Mr. Montgomery, I show you Defendants' Exhibits Nos. 146 to 182, both inclusive, and ask you what those are (handing papers to witness).

A. Those are tabulations of bids on material as they

are brought in to me every day. Those are the names of the people who were asked to bid, and here are the bids.

Q. Are these last mentioned exhibits typical of those which have been received during your term of office in charge of the purchasing department?

MR. COLTON: I object on the ground that the question calls for the witness to make a conclusion on a very large number of bids; to state them to be typical as regards the various bids that have come into him from time to time extending over the period of time during which he has been connected with the business, and his mind is not addressed to what is meant by "typical" in this sense.

THE WITNESS: Yes, sir.

By MR. REED:

Q. Do you know Mr. George F. Baker, Mr. Montgomery?

A. No, sir.

Q. Is he a director of the Lehigh Valley Company?

A. I found it out last week, when I came to look up the annual report. I did not know it before.

Q. When did you first learn that he is a director of the Steel Corporation?

A. When you told me last week some time.

Q. Do you know Mr. Charles Steele?

A. No, sir.

Q. Is he a director of the Lehigh Valley?

A. I found that out also at the same time.

Q. Did you know it before?

A. No, sir.

Q. Did you know that he was a director of the Steel Corporation until I told you?

A. Not until you told me.

Q. Has either of those gentlemen at any time ever spoken with you in regard to purchases of steel products from the Steel Corporation or any other company?

A. I never saw either of them that I know of.

Q. Has any officer of your company or any director at any time attempted to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Have you ever favored the Steel Corporation because of the relationship of Messrs. Baker and Steele to the Steel Corporation?

A. No, sir.

Q. Have you ever favored the Steel Corporation for any reason other than its offer of a better price or a better delivery or a better quality?

A. No, sir.

Q. Referring again, Mr. Montgomery, to Defendants' Exhibits Nos. 146 to 182, both inclusive, I ask you by whom these quotations are tabulated?

A. One of the clerks.

Q. In your office?

A. Yes, sir; the regular man.

Q. After that tabulation has been made, what is done with it?

A. They are put on my desk every morning.

Q. In what way, if any, do you express your decision as to the awarding of the contract?

A. They are all checked there in blue pencil. That means I pass it.

Q. Who puts on that blue pencil check?

A. I do.

Q. Then the check marks in blue pencil that we find on these exhibits were put there by you?

A. That is right.

Q. And are these the original tabulation sheets on which you acted?

A. Yes.

Q. And on which the contracts or orders were awarded?

A. Yes, sir.

MR. REED: That is all. Cross examine, Mr. Colton.

CROSS EXAMINATION

MR. COLTON: May I have Defendants' Exhibit No. 145? (Paper handed to Mr. Colton by the witness.)

MR. COLTON: You have not offered Defendants' Exhibit No. 145 in evidence as yet?

MR. REED: Not yet; no.

By MR. COLTON :

Q. When did you first become connected with the Lehigh Valley Railroad? Is that right?

A. Yes. Twenty-two years ago, I think it is.

Q. In what capacity?

A. Why, first, as chief clerk in the general storekeeper's department.

Q. General what?

A. General storekeeper.

Q. How long were you chief clerk in the general storekeeper's department?

A. I think it was five years.

Q. And about what date?

A. 1892 to, I think it was, 1897.

Q. What was the next position you held?

A. I became general storekeeper.

Q. You became general storekeeper in 1897?

A. 1897 or 1898; now, I would not swear to which.

Q. What were your duties as chief clerk?

A. Well, to manage the office.

Q. Were you connected with the buying?

A. No.

Q. What were your duties as general storekeeper?

A. As general storekeeper I had charge of the storehouses all along the road, and the general storehouse, and ordered the material to keep up that stock.

Q. How long were you general storekeeper? You may have stated, but I have forgotten it.

A. I think about two years.

Q. Did you have anything to do with the buying during that period of time?

A. Not a thing.

Q. What was the next position you held with the Lehigh Valley Railroad?

A. I went into the purchasing department then.

Q. What year was that?

A. It is pretty hard for me to fix dates. About 1900.

Q. You became connected with the purchasing department in about 1900?

A. Yes.

Q. In what capacity?

A. Practically assistant purchasing agent; I took the place of an assistant who passed out.

Q. What were your duties as acting purchasing agent—acting purchasing agent, is that it?

A. I was really assistant purchasing agent, and I did part of the buying; that is, mostly the smaller stuff.

Q. What steel products did you buy?

A. The same as we are buying now. You have a list of them right now.

Q. I want to know what they are.

A. Billets and car axles, sheets and plates, structural steel and angle bars.

Q. Would angle bars be structural steel?

A. No, I mean splice bars. I can read this list to refresh my memory—steel wheels; that is an item, and a pretty heavy one.

Q. You can use any set of names that you may have.

A. Wire, wire nails, bar steel; that is about the line.

Q. When did you continue to be assistant purchasing agent.

A. I have been in the department ever since, and up to eight years ago I was occupying the same position; about eight years ago the office of purchasing agent was discontinued, and since then I have been handling the thing and reporting to the man who was formerly the purchasing agent.

Q. During the time that you were assistant purchasing agent you did not have charge of settling on the particular company to which you would award an order or contract, did you?

A. To some extent, yes. That is, I handled some part of the business entirely myself.

Q. Now, since you have become purchasing agent—

A. No, we have no purchasing agent; I am in charge of the department.

Q. Since you became in charge of the department has your assistant also had authority in certain cases?

A. No, sir.

Q. What quantity of billets did you buy during the year 1900?

A. I couldn't tell you that.

Q. Can you give any approximation of how many billets you bought in 1900?

A. I haven't the slightest idea; no, sir, I could not tell you. I think, though, I could get it from the records.

Q. I want to take your memory now.

A. I could not tell you.

Q. The Lehigh Valley Railroad—when you speak of the Lehigh Valley Railroad are you speaking of any associated lines with it?

A. The whole thing; what is known as the Lehigh Valley Railroad.

Q. Give a description of that.

A. It is a road running from New York to Buffalo, with branches up in New York State to Lake Ontario, and the other one which used to be called the Elmira, Courtland & Northern, which runs up to a little place called Camden, up in the State, and branches out in the coal regions; and those branches are probably incorporated under a great many different names. I don't know anything about that; that is not part of my business, but the whole thing is known as the Lehigh Valley Railroad.

Q. Do you purchase for the entire road you are now describing?

A. Yes.

Q. And you do not purchase for any roads that may be associated with the Lehigh?

A. No, sir.

Q. About what tonnage of billets did you buy in the year 1900?

A. I couldn't tell you.

Q. From whom did you purchase billets in 1900?

A. I could not tell you that; I have three years here, 1911, 1912 and 1913. This gives the tonnage.

Q. Just at present, if you would address your mind to the questions I ask, rather than those last three years—what quantity of billets did you buy in the year 1901?

A. I couldn't tell you.

Q. From whom did you buy them?

A. I could not tell.

Q. From whom did you solicit bids in 1900?

A. I could not tell you that.

Q. From whom did you solicit bids in 1901?

A. I could not tell you.

Q. In 1902?

A. I couldn't tell you.

Q. In 1903?

A. I could not tell you.

Q. In 1904?

A. I could not tell you.

Q. In 1905?

A. I could not tell you.

Q. In 1906?

A. I could not tell you.

Q. In 1907?

A. I could not tell you.

Q. In 1908?

A. I could not tell you.

Q. In 1909?

A. I could not tell you.

Q. In 1910?

A. I could not tell you.

Q. Now, without looking at that exhibit, do you personally recollect the particular concerns from which you solicited bids for billets in any one of the last three years?

A. No. Well, hold on; you ask me can I tell you one concern, one name?

Q. Yes.

A. I believe we never asked for bids on billets without asking the Camden Forge Company, and possibly also the concern of D. G. Gautier.

Q. Have you personal recollection as to either of those concerns, that you did solicit bids from both of them during the last three years?

A. I believe that an examination of the records would

show that we never failed to ask at least those two, every time we were in the market.

Q. Where is the Camden Forge Company located?

A. It is somewhere in the neighborhood of Philadelphia.

Q. Where is D. G. Gautier located?

A. I am afraid you have got me there; I think they are in Philadelphia too; their address is Philadelphia. I do not have to keep track of these addresses; it is done by somebody else outside. I know these names without knowing where the people are, in many cases.

Q. Do you know whether D. G. Gautier is a manufacturer?

A. I believe so.

Q. Where do they have a rolling mill, if they have any?

A. Where do they have?

Q. Yes; if they have a rolling mill, where is it?

A. I think it is somewhere in the neighborhood of Philadelphia.

Q. Have you ever been to it?

A. No.

Q. By what means do you know that they roll their own steel?

A. I do not know it, positively.

Q. The Camden Forge Company; do you know where their rolling mill is located?

A. Somewhere in the neighborhood of Philadelphia, I am pretty sure.

Q. Do you know of your own knowledge that they have a rolling mill?

A. I do not. I believe they have, though.

Q. Can you give the approximate price of billets in the year 1900?

A. No.

Q. Could you give any approximation as to the extent to which billets varied as between the different manufacturers in the year 1900?

A. No, sir.

Q. Do you have any recollection of a great drop in the price of billets during the year 1900?

A. No, sir.

Q. You have no recollection on the subject one way or the other?

A. No; to tell you the truth, billets are a very small item with us.

Q. Then you do not feel as if you are in touch with the billet market?

A. That is only one of so many thousands of things that it would be absolutely impossible for me to carry it in my mind.

Q. It being a small item with you, you do not make the same effort to secure a large number of bids in billets as you do in some of the other products; is that right?

A. More or less so, but we get competitive bids probably from four or five people at least.

Q. Can you say, as a matter of recollection, as to what four or five people you got bids from during the year 1907?

A. I couldn't tell you.

Q. Could you give any statement as to the extent of the variations in the price of billets during the year 1907?

A. No, sir.

Q. 1908?

A. No, sir.

Q. 1909?

A. No, sir.

Q. 1910?

A. No, sir.

Q. 1911?

A. No, sir.

Q. 1912?

A. No, sir.

Q. 1913?

A. No, sir.

Q. 1900 to 1906, inclusive?

A. No, sir.

Q. From whom did you purchase sheets in the year 1900?

A. Well, I could not answer that.

Q. Can you answer it for any year from 1900 to 1910, inclusive?

A. In 1910 I am quite sure that the bulk of our sheets

was purchased from Worth Brothers and from the Lukens Iron & Steel Company.

Q. Now, when you say you purchased the bulk of your sheets from Worth Brothers and Lukens Iron & Steel, do you not mean that you purchased the bulk of your plates from those two companies, as distinguished from sheets?

A. Oh, well, yes. Now, if you are going to separate them, I should say that is plates, because it is really boiler, fire box, and tank plates.

Q. Do you know to what extent your purchases from those two companies during the year 1910 were boiler and fire box plates?

A. Boiler, fire box, and tank plates?

Q. Boiler and fire box plates, as distinguished from tank plates?

A. They are three different things, you know?

Q. Yes, I understand; but I want to know what percentage of your purchases were boiler and fire box plates, and what percentage was tank plates.

A. Oh, I cannot answer that question.

Q. You do not know?

A. No.

Q. You do not know whether your tank plate purchases amount to 10 per cent. of your whole purchases or not, do you, in plates?

A. In plates, yes; I should say without any hesitation at all it amounted to considerably more than that.

Q. Well, how much more?

A. Probably 25, 30 or 40, or maybe 50 per cent.

Q. Will you say 25?

A. I should be inclined to raise that to nearer 50.

Q. To nearer 50 per cent.?

A. Yes.

Q. Do you have any recollection of the prices that were bid you on plates in the year 1910, independent of your records?

A. No, sir; I could not tell you.

Q. As to the extent of the variation between the different manufacturers?

A. No, I could not tell you.

Q. How did you submit your orders during the year 1910 to the different manufacturers?

A. For plates?

Q. Yes.

A. I do not think we submitted them at all. That is a peculiar thing, and requires an explanation. Our people have very strict specifications, you know, for boiler and fire box steel, and this material must meet those specifications. We have found, and it has been the experience for a number of years, that Worth Brothers, of Coatesville, and this Lukens Iron & Steel Company, who are also of Coatesville, I think, have invariably furnished us steel that met those specifications, and we had no trouble. At the same time, they have kept us right down to the market. There is competition between the two, and if Lukens notifies us, as they did a week ago or ten days ago, that they have cut the price a dollar a ton, Lukens gets all the business until Worth wakes up and comes in and meets that price. We do not ask bids.

Q. You work those two companies against each other?

A. Yes.

Q. And that is the kind of competition you get in plates?

A. Yes; that is it, and we know we cannot beat it anywhere else.

Q. That there is sufficient uniformity in the price not to be able to beat them anywhere else?

A. That is right. They run about the same.

Q. Yes. Now, you spoke of the fact generally that in dull periods prices were lower than they were in prosperous times, in the steel industry?

A. Yes, sir.

Q. Now, take the year 1908 and the year 1909 in the steel industry: Would you undertake to say that the year 1908 was more prosperous in the steel industry than the year 1909?

A. I would not undertake to, no, sir. I do not remember it.

Q. You do not remember?

A. No, sir.

Q. Nor would you undertake to say that in the year 1909, if that year was the more prosperous of the two years, or despite the fact that that year was the more prosperous of the two, that prices were far lower in 1909 than they were in 1908 on steel products in general?

A. Would you mind repeating that?

MR. COLTON: Read that question to him.

(The pending question was read by the stenographer.)

MR. REED: Is that a statement or a question?

MR. COLTON: That is a question.

THE WITNESS: Well, the fact of the matter is, you know, I do not remember whether 1909 or 1908 was the more prosperous year.

By MR. COLTON:

Q. You do not remember, then, that in 1909 the output in steel products was far greater than it was in 1908?

A. No; that is something I never looked into.

Q. And during the year 1908 you never investigated the extent to which the different mills needed orders, did you?

A. No, sir.

Q. And during the year 1909 you did not investigate the extent to which they needed orders?

A. No, sir.

Q. Do you recall the very great cut that occurred about February, 1909, in steel products, at the time Judge Gary held a meeting and gave notice that he would no longer continue to meet together with the other manufacturers in the way that they had been doing?

A. No, sir; I do not recall it at all.

Q. You do not have any recollection in regard to that?

A. No, sir.

Q. Now, do you have any recollection as regards the prices during 1910, as compared with the year 1908, with respect to uniformity between the different manufacturers?

A. No, sir; I do not have any recollection at all.

Q. Do you have any recollection as distinguishing the year 1907 and 1910, as regards the uniformity of prices among the different manufacturers of steel products?

A. No, sir.

Q. As between 1906 and 1910 do you have any recollection in regard to that?

A. No, sir.

Q. During the year 1911 were you sufficiently familiar with the steel market to be aware of the large cut in steel prices that followed the notice by the Republic Company to the majority of the other manufacturers of steel products in the United States that they would no longer continue in the co-operative movement?

A. No, sir.

Q. You have no recollection as to prices during 1911?

A. No.

Q. Or as to the variations between the different manufacturers in respect to prices?

A. No, sir.

Q. From whom did you purchase your structural steel in 1900?

A. I could not tell you, except by giving you a list of the names we are buying from now. They are practically the same people.

Q. Well, do you have any recollection of the people that you bought from in 1900?

A. No, sir.

Q. Did you buy from Carnegie in 1900?

A. I have no doubt we did.

Q. You have not any recollection of it?

A. No, sir.

Q. Did you buy from A. & P. Roberts in 1900?

A. Pencoyd? I think we did.

Q. Did you buy from the American Bridge Company fabricated structural material in 1900?

A. I could not tell you, really.

Q. In the year 1901—

A. (Interposing) I could not say.

Q. (Continuing)—could you give any of the parties?

A. No.

Q. For any one of the years from 1901 down to 1910, in-

clusive, can you give any of the parties from whom you purchased?

A. No, except by giving you the present list.

Q. And, I believe, you have already said as to that present list you depend on the memorandum for that?

A. Yes.

Q. During the last three years do you have any recollection as to the different parties from whom you solicited bids on structural material, independent of any memorandum which you may have?

A. Fabricated material or——

Q. (Interposing) Plain material.

A. Plain material?

Q. Yes.

A. Why, Jones & Laughlin, Pittsburgh, is one; Eastern Steel Company, of Pottsville; Phoenix Iron Company, of Phoenixville; Carnegie Steel Company; Cambria Steel Company; Bethlehem Steel Company; Lackawanna Steel Company, and four or five dealers.

Q. Do you know, as a matter of recollection, that you solicited bids from each of these different companies on every order in structural material?

A. No, I would not say that.

Q. I did not mean to imply that you had said it; I just wanted to get the fact.

A. No, I could not say.

Q. Do you know in respect to the various orders as to which of these different companies you solicited bids from?

A. As to which of them?

Q. Yes; as to which of the companies you have named. I understand that you solicited bids at one time or another from all of these different companies?

A. The probabilities are that those names that I have given you were on every inquiry that we put out for structural steel.

Q. That is the probability, but as to your recollection now, you haven't any independent recollection on that?

A. I could not be positive; I think they were, though.

Q. Have you any recollection as to the quantity of structural steel that you bought in 1909?

A. I couldn't say.

Q. 1910?

A. I couldn't say.

Q. 1911?

A. You have that here if you want me to read it.

Q. No, I do not want it off a memorandum.

A. No, sir.

Q. 1912?

A. No, sir.

Q. 1913?

A. No, sir.

Q. Could you state what companies you solicited bids from in respect to your different orders of structural steel prior to 1910?

A. I could not.

Q. From whom did you buy splice bars in the year 1900?

A. I couldn't tell you.

Q. Could you tell me for any year from 1900 to 1910 inclusive?

A. No, sir.

Q. Could you tell me from whom you solicited bids for any of those years?

A. No, sir.

Q. Since 1910 from what different companies have you purchased splice bars?

A. The Cambria Steel Company, Lackawanna Steel Company, I think Carnegie, but I am not sure, and probably the Pennsylvania Steel Company. The Lackawanna and the Cambria I am sure of.

Q. Do you know whether the Pennsylvania Steel Company makes splice bars or not?

A. Yes, sir.

Q. Do they roll them?

A. I believe they do; I always have believed it.

Q. Do you know whether you asked for bids, as a matter of recollection, from each of those companies on each one of the different orders placed during the last ten years?

A. I believe we have.

Q. I am asking for your recollection now if you have any, as regards the different orders.

A. I couldn't say.

Q. Take wire. From what different companies did you purchase wire in the year 1900?

A. I couldn't tell you.

Q. Do you not know what different companies you purchased wire from in the year 1900?

A. No, sir.

Q. Do you know any of the different companies from whom you purchased wire in any year from 1900 to 1910, inclusive?

A. I could not answer that question positively, no.

Q. Do you know anything in regard to the variations in prices as between the different companies from whom you purchased wire from 1900 to 1910, inclusive?

A. No, sir.

Q. You have no recollection as regards variations in prices during those years, have you?

A. No, sir.

Q. Would your answers be the same as to wire nails?

A. Yes.

Q. During the last three years from whom have you purchased wire?

A. From J. Roebling's Sons Company, Trenton; Standard Underground Cable Company, Waclark Wire Company, Waclark, Montana; American Steel & Wire Company, Hazard Manufacturing Company. I guess that is about all that I can recall.

Q. Do you recall what sort of wire you bought from the Hazard Manufacturing Company?

A. No.

Q. Could you state the kind of wire that you purchase from any one of those different companies?

A. The only one that I do know is that we have purchased from Roeblings for a great many years wire that is used for bonding rail in the track, to make an electric circuit; we have stuck to them because they furnish something that suited our people. That is the only one I could tell you.

Q. You bought from them exclusively on that?

A. That one item, yes.

Q. As to the others you have no recollection as to the character?

A. No.

Q. Now, how about wire nails, could you tell me what different companies you purchased wire nails from during the last three years?

A. Yes, from Wickwire Brothers, Cortland, New York; the American Steel & Wire Company, and the Pittsburgh Steel Company.

Q. Is Wickwire located on or near any one of your lines?

A. They are located at Cortland, New York.

Q. Is that on one of your lines?

A. It is on one of our lines.

Q. Is the American Steel & Wire Company located on any of your lines, so far as you know?

A. They have got a plant at Allentown, I believe. What they make there, I don't know.

Q. The Pittsburgh Steel Company has not?

A. They are at Pittsburgh.

Q. Do you know what percentage of wire nails you purchased from the Pittsburgh Steel Company during the last three years?

A. No, I couldn't tell you.

Q. Nor what percentage you purchased from the American Steel & Wire Company during the last three years?

A. No.

Q. Take bar steel: from whom did you purchase bar steel in the year 1900?

A. I couldn't tell you.

Q. Could you give me the names of any of the different companies from whom you solicited bids or took prices in the year 1900 on bar steel?

A. No, sir.

Q. Can you tell me for any one of the years from 1900 to 1910, inclusive?

A. No, sir.

Q. Have you any recollection as to the variation in prices as between the different manufacturers in bar steel for any one year from 1900 to 1910, inclusive?

A. No, sir.

Q. I believe you stated you could not give the persons from whom you purchased bar steel in any one of those years?

A. No, sir.

Q. From whom did you purchase bar steel during the last three years?

A. I couldn't answer that question without looking up my records.

Q. You have not any memory independent of your records?

A. No; I do not pretend to carry those things in my mind.

Q. If you wished to find out the variations, you would go to your records on that?

A. I surely would.

Q. You would not pretend to remember the variations?

A. No.

REDIRECT EXAMINATION

By MR. REED:

Q. Could you give us the total tonnage of all steel products that your company has bought annually in recent years?

A. Could I give it to you?

Q. Can you; have you got it in your mind?

A. No, sir.

Q. I suppose that can be worked out from Exhibit 145, can it not?

A. Yes.

Q. I understood you to say, in answer to one of Mr. Colton's questions, that you do not purchase for roads associated with the Lehigh Valley, or perhaps you concurred in a question that included those words. Do you know of any roads that are associated with the Lehigh Valley for which you do not buy?

A. I would infer that that question would refer to the Philadelphia & Reading and the Jersey Central; but everything that is known as the Lehigh Valley we buy for.

Q. Will you state whether or not you believe that in your purchases of steel products you get the benefit of genuine competition?

MR. COLTON: I object on the ground that the witness has not been shown to be qualified to give any opinion on that subject.

THE WITNESS: We believe we do.

MR. REED: We offer in evidence Defendants' Exhibits 146 to 182, both inclusive.

MR. COLTON: I am going to cross examine Mr. Montgomery on his knowledge of those exhibits, if you are going to offer them in evidence.

RECROSS EXAMINATION

By MR. COLTON:

Q. Look at Defendants' Exhibits 146 to 182, inclusive, and give the period of time that they cover.

A. They were picked out at random for the years 1912 and 1913. These records prior to 1912 have been destroyed; that is, we asked permission of the Interstate Commerce Commission to burn them up. They are bulky, you know, and the last two years are all that we have. I just told a clerk to pick those out, giving him this list of subjects, and those are what he gave me.

MR. COLTON: I object to all of the exhibits, 146 to 182, inclusive, on the ground that this witness is not competent to prove their identity or their correctness, and I understand as to all witnesses we are having an objection as to any matters that relate to a time subsequent to October 26, 1911.

MR. REED: I did not know that. So far as my witnesses are concerned, you are perfectly welcome to understand it.

MR. COLTON: You do not offer Exhibit No. 145?

MR. REED: Not yet, no.

(The papers referred to were thereupon marked "Defendants' Exhibit (Montgomery) No. 146, November 28, 1913" to "Defendants' Exhibit (Montgomery) No. 182, November 28, 1913," and will be found in the volume of Defendants' Exhibits.)

MR. REED: It is agreed by counsel that after Exhibits 146 to 182, both inclusive, shall have been printed in the record, the originals of said exhibits may be returned to the witness last on the stand.

WILLIAM M. CRANE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. In Whitestone, Long Island, Beechhurst.

Q. Your place of business is in New York City?

A. New York City.

Q. What is your occupation?

A. Manufacturer of gas appliances.

Q. And the name of your company is what?

A. The William M. Crane Company.

Q. You are president of the company?

A. I am.

Q. And have been since its organization?

A. I have.

Q. When was it organized?

A. We have been a firm from the very inception of the company until—I can not recall from memory just when it was—say about 1900.

Q. How long have you been in this same business?

A. In the manufacturing, we have been in it about twenty-four years.

Q. Where are your works?

A. At Greenville, Jersey City.

Q. What kind of steel materials do you buy?

A. Principally sheet steel and pipe, with some little band iron.

Q. What gauge sheet steel do you buy?

A. The bulk of it is 24-gauge.

Q. And about how many tons do you buy of that annually?

A. At the present time about 1,200 to 1,500 tons.

Q. From what companies have you received quotations on that character of sheet steel?

A. I can not recall all that we get quotations from. Each season, when we begin the season, we get quotations from so many that come in to call on us to try to sell us goods; we simply get their quotations and make a note of them.

Q. Can you give us the names of some of the companies from whom you have bought?

A. Yes; we have bought of the La Belle, the American Sheet & Tin Plate Company, and the Youngstown Sheet Steel & Roofing Company, and Bruce & Cook; they are more particularly jobbers.

Q. You have bought from a number of different jobbers?

A. We have bought from a number of jobbers; we pick up a great many lots of them.

Q. Have you bought any from the Follansbee Company?

A. Yes, we have, in times past.

Q. From the Alan Wood Iron & Steel Company?

A. I do not think we have had quotations from them. We have not used their quality of iron.

Q. Do you usually buy on contracts for a specific period, or do you buy as you need the material from time to time?

A. Why, we usually buy a certain portion on contract for the season.

Q. And the balance as you need the material?

A. And the balance as we need the material.

Q. Before you let your contracts, or before you place your orders, do you ask quotations from different manufacturers and jobbers?

A. We do.

Q. And how long have you been doing so?

A. Ever since I have been buying; ever since we have been in business.

Q. Do the quotations that you receive vary, or are they uniform in price?

A. They vary.

Q. How long has that been so, Mr. Crane?

A. Why, always.

Q. Do you believe that you get the benefit of genuine competition in your purchases of sheet steel?

A. I do.

Q. Now, coming to pipe, about how many tons of pipe do you buy annually?

A. I don't know what the tonnage would be. We buy from five to eight cars a year. That is charged up per foot, you understand.

Q. I see. Can you give us any idea of the number of feet you buy?

A. I should say 250 to 300 thousand feet; that is just a guess; it may be a little more or less. I am only guessing at it.

Q. Of what sizes do you buy mostly?

A. Half inch and three quarter.

Q. Steel pipe?

A. Steel pipe.

Q. That is, welded steel pipe?

A. Yes; it is welded steel pipe; what is known as steel pipe.

Q. From what companies have you been buying your pipe?

A. We have bought from the Longmead Company, and La Belle; from the Crane Company. We have bought considerable from Ronalds & Johnson.

Q. Do you buy from the National Tube Company too?

A. I do not think so, except as we have had stuff from them through the Crane Company. I do not think we bought any from them direct.

Q. Have you had quotations from other manufacturers of pipe?

A. I do not recall the others.

Q. How about the Republic Company, for instance? Have they ever quoted to you?

A. They may have quoted. I do not recall that, because it has gone through the purchasing department.

Q. Well, these quotations are submitted to you by your purchasing department, are they?

A. They are.

Q. How about the quotations on pipe, Mr. Crane? Are they uniform or do they vary?

A. They vary, from the different ones.

Q. And how long has that been so?

A. Ever since we have been buying.

Q. Do you believe you get the benefit of competition on your pipe purchases too?

A. We feel we do.

MR. REED: Cross examine, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. There are times when two or more companies quote the same price on sheets, are there not?

A. That sometimes happens on the variations. We have different sizes and different qualities, you know, and they sometimes have the same price.

Q. From whom did you purchase sheets in the year 1900?

A. I cannot remember.

Q. From whom did you take bids in the year 1900?

A. I cannot remember that.

Q. 1901?

A. I will have to say that I do not remember after the year's supply. We go over all our figures. We get all our estimates, and take the different figures that we get from the different companies. We eliminate those that are highest, and get it down to one or two that are the lowest. After I settle the prices, then I turn it over. I could not recall even back two years, or even one year.

Q. Your recollection is rather indefinite, these being matters of record, and you have not charged your mind with them?

A. No, sir; not at all; I could not recall at all.

Q. Do you recall, as a matter of distinct recollection, as to which of the different companies in the year 1901 had the same price, and which of them had different prices on their quotations on sheet steel?

A. Well, I could not, because we buy several qualities, and then there is one quality that we insist upon. That quality we insist upon, and we were able to get it from two or three mills at one time, and then from only one mill. Others would probably quote the same price, but it was not the same quality of iron, so we dismissed the others. After doing that I dismissed it from my mind.

Q. Would your answer be the same for the year 1902?

A. It would be the same for all years.

Q. For the entire period of time?

A. For the entire period of time. I have no recollection at all.

Q. If two or more companies happened to bid the same in January you would have no recollection as to whether those same two or more might bid the same later in the year or not, would you?

A. No, I would not, unless we had occasion, as we sometimes have, late in the year, with an increased business, to buy several carloads. Then we get special bids again.

Q. Now, could you give me for any of the different years, as a matter of recollection, the companies from which you have solicited bids, from 1900 to 1910, inclusive?

A. On pipe?

Q. No, on sheet steel.

A. On sheet steel?

Q. Yes.

A. For quite a number of years we used a smaller quantity of sheets, and we bought from the jobbers. Bruce and Cook.

Q. And what other jobbers?

A. I do not remember the jobbers. I cannot recall them.

Q. Your connection with this is rather through your subordinates, is it not?

A. Only the last four or five years it has been. I have a purchasing agent, and he attends to the detail.

Q. You do not remember for the earlier years when you were in charge?

A. Well, I have forgotten the names of the jobbers just for the moment, until they come to me.

Q. What was the first year that you took up the question of bids or orders with any of the manufacturers?

A. Well, I should say about in 1900 and 1895; somewhere along there.

Q. But you could not give any of the manufacturers for any one of the different years?

A. Yes; Youngstown Steel is one that we first dealt with as a manufacturer; Youngstown Sheet Steel and Roofing Company.

Q. The Youngstown Sheet Steel & Roofing Company?

A. Yes; they brought a quality of iron to us that——

Q. (Interposing) That you liked?

A. Yes, that we liked.

Q. And which was most suitable for your wants?

A. Yes, and which was suitable for our wants.

Q. How long did you continue to buy it from that company because of that special suitability?

A. Up until four or five years ago.

Q. And you liked that style of steel so much that you confined your business to that company?

A. Practically, at that time.

Q. What do you mean by "four or five years ago"?

MR. REED: What does anybody who talks English mean by that, Mr. Colton?

MR. COLTON: Well, I do not know. It is a little indefinite. I would like to have you define just what you do mean.

THE WITNESS: I do not know. I would not define it.

By MR. COLTON:

Q. You just mean, generally, two, three or four years ago; is that it?

A. That is the idea, exactly.

Q. I see. Now, in regard to pipe, could you tell me with what different companies you took up the question of your orders in 1900?

A. I could not.

Q. Can you tell me for any year from 1900 to 1910, inclusive?

A. Only in a general way; we have bought from the Crane Company, and from Ronalds & Johnson, but just what proportion I do not know. Ever since we have been in the business those have been the typical ones.

Q. Sometimes, in the case of pipe, there would be two or more of them that would bid the same, also?

A. Oh, yes.

Q. But you could not tell us as to which of them bid the same at one time and which bid the same at another time, could you?

A. Oh, no; there is always a variation of five or ten per cent.

Q. There would be one or more that you could get under with, as a rule?

A. Yes.

Q. That is as to pipe?

A. Yes.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. Crane, I do not know that it is very clear when you started to place your purchases with companies other than the Youngstown Sheet Steel & Roofing Company. Can you tell us approximately when you began to place your orders with other companies than that one?

A. Well, I should say about in 1908.

MR. REED: That is all.

RECROSS EXAMINATION

By MR. COLTON:

Q. Was that for sheet steel?

A. Yes.

Q. Do you have any recollection that you began to place orders with any other manufacturer as early as the year 1908?

A. I stated 1908 rather than to say "four or five years." It is about 1908.

Q. You said, did you not, that you used the term "four or five years" in the sense of two, three or four years?

A. Yes.

Q. You could not state the first year in which you did begin to so purchase?

A. No; only this; I know we have not bought—just as I say, indefinitely, about five or six years, since we have bought the quantity from the Youngstown people. We began to buy of others—

Q. (Interposing) For the last two years you have bought about what percentage from the American Sheet & Tin Plate Company?

A. The last year we bought all, and, I think, we bought practically all a year ago,—1912; and before that, we divided up.

Q. You divided it up among what different parties?

A. Youngstown Steel was then finishing up, I think.

Q. And the American Sheet & Tin Plate?

A. No; they are outside of that.

Q. They did not come in until 1912?

A. No; before that. I think we bought of the Steel Corporation in, I will say, 1909.

Q. And how much did you buy from the Steel Corporation in 1909? What percentage of your requirements in that line?

A. I could not tell you that. At first, instead of making contracts, we would buy one, two, or three cars at times when we needed it, and it ran along in that way, just as we needed the goods.

Q. In 1909 what other companies did you buy from besides the American Sheet & Tin Plate Company?

A. Those I have quoted: Bruce & Cook, and the jobbers; we picked up. The manufacturers—I do not know whom they represented.

MR. COLTON: That is all.

MR. REED: That is all, Mr. Crane. Mr. Collins.

WILLARD R. COLLINS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Collins?

A. Newark, New Jersey.

Q. What is your occupation?

A. Purchasing agent of the Erie Railroad.

Q. How long have you been purchasing agent of the Erie Railroad?

A. Since May, 1909.

Q. 1909?

A. Yes, sir.

Q. And prior to that time what was your position?

A. I was assistant purchasing agent of the Erie since November, 1902.

Q. What kind of steel materials does the Erie buy?

A. Bars, shapes, plates, tubes; practically everything in steel.

Q. Spikes?

A. Yes, sir.

Q. Wire?

A. Yes, sir.

Q. Angle bars?

A. Yes, sir.

Q. Can you give us any idea of your approximate annual tonnage of purchases of steel supplies?

A. No, sir; I have not looked that up.

Q. Can you give us the approximate annual tonnage of any particular products?

A. Well, in 1912, on shapes, angles, structural, plates, and bars, approximately 10,000 tons.

Q. Does that include your spikes?

A. No, sir.

Q. Does it include your angle bars?

A. No, sir.

Q. Does it include your wire?

A. No, sir.

Q. That would be additional?

A. Yes.

Q. Whatever it would amount to?

A. Yes.

MR. COLTON: 10,000 tons during what year?

THE WITNESS: 1912.

By MR. REED:

Q. How about the purchases of rails, Mr. Collins? Are the purchases of rails made through your office?

A. No, sir; by the president, or, at least, in his office.

Q. You, however, purchase all the other steel products that your company requires?

A. Yes, sir; they are purchased in my office.

Q. While you were assistant purchasing agent, Mr. Collins, between 1902 and 1908, did you give your attention at all to the purchase of steel supplies?

A. No, sir.

Q. What departments were under your particular charge at that time?

A. Fuel and coal, ties and lumber.

Q. You confined your attention largely to them, did you?

A. Altogether during that time, except it may be possible that at the request of the purchasing agent, I might handle some particular thing to relieve him, but it was simply that one item at that time, and ended there.

Q. That would be the exception?

A. Yes.

Q. Since you became purchasing agent in May, 1909, who has had charge of the purchase of steel supplies?

A. I have.

Q. How do you buy, Mr. Collins, by annual contracts or by orders as you need the material?

A. Mostly by contract, although on certain items, largely by what we term inquiries—quotations

Q. Do you ask for quotations from different makers of these materials?

A. Yes.

Q. How do the quotations range in price? Are they uniform, or do they vary?

MR. COLTON: Objected to on the ground that the witness is not shown to have any memory or recollection on that subject, of his own personal knowledge.

THE WITNESS: There is variation in price.

By MR. REED:

Q. Are there any exceptions to that general statement?

A. It would not hold 100 per cent., but, then, generally speaking, the quotations we receive vary.

Q. In what kind of times do you find the least variation?

MR. COLTON: Just a moment. I object on the ground that the witness is not shown to have any knowledge as to the particular times at which prices varied, or the character of the times, from the point of view of the steel industry, anyway.

THE WITNESS: When they do not want the business. In other words, when they are up to capacity.

By MR. REED:

Q. When they are not up to capacity, you find them competing for your business?

A. Very actively.

Q. Does that competition extend to price quotations as well as other matters?

A. Yes.

Q. I suppose there are differences in their ability to deliver at different times, too, are there?

A. Yes.

Q. Do you consider that as well as price?

A. Absolutely.

Q. How long have those conditions obtained?

A. There has been no change whatever since I have had any knowledge of the business.

Q. That is, in May, 1909, when you began?

A. Yes.

Q. Have you had any difficulty in finding what you feel to be genuine competition for your business?

A. No; none whatever.

Q. Do you know Mr. George F. Baker?

A. No, sir.

Q. Do you know Mr. Charles Steele?

A. No, sir.

Q. Do you know Mr. Norman B. Ream?

A. No, sir.

Q. Are those gentlemen directors of your company?

A. I looked it up and found they were; I did not know it as a matter of fact.

Q. When did you look it up?

A. One day this week; Monday, I believe, of this week.

Q. When did you first learn that those three gentlemen were directors of the Steel Corporation too?

A. On Monday.

Q. How did you learn it?

A. You told me.

Q. Have you ever heard it stated or suggested before that?

A. No, sir.

Q. Has any one of them ever interfered with the management of your office?

A. No, sir.

Q. So far as you know?

A. No, sir.

Q. Has any one of them ever attempted, directly or indirectly, so far as you know, to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Or to divert business to the Steel Corporation?

A. No, sir.

Q. Has any one of the directors of your company, or has any officer from the president down, ever attempted to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Either because of instructions or suggestions from your

officers or directors, or from your own inclination, have you ever favored the Steel Corporation?

A. No, sir.

Q. What influences you to give an order to the Steel Corporation or one of its subsidiaries when you do give an order to them?

A. Price and delivery.

Q. So far as you can see, has it been of any advantage to the Steel Corporation in getting business to have any of its directors also directors of your company?

MR. COLTON: That is objected to on the ground that the witness' answer is immaterial.

MR. REED: His answer is immaterial?

MR. COLTON: That his knowledge is immaterial.

THE WITNESS: No, sir.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. Rails have been looked after by the president?

A. In his office, yes.

Q. What was the price of bars when you first became connected with the steel purchasing department?

A. I don't know.

Q. Don't you know that the price of bars was low in May, 1909, down to and including November, 1909, as compared with the prices of bars in the early part of 1911?

A. It is a matter of record.

Q. You have no recollection as to the price?

A. No, sir.

Q. Now, you spoke of the mills quoting more uniform prices during periods in which they were filled up?

A. Yes.

Q. Let us see how much you know about that as regards particular periods. Take the period January, 1911, to April, 1911, and the period August, 1909, to December, 1909, do you know, as a matter of fact, whether the prices were not very much more variant during the period from August to Decem-

ber in 1909 than they were during the period from January, 1911, to April, 1911?

A. No, I do not know it.

Q. You do not have any recollection about that?

A. No.

Q. And you do not have any recollection about what sort of periods they were in the steel industry, do you?

A. No.

Q. You do not know, then, as a matter of fact, that during the latter part of 1909 the steel manufacturers were running from 75 to 80 per cent. of their capacity?

A. No, not in that particular period; I could not say that, no.

Q. You do not know that during the early part of 1911 the steel manufacturers were running to only about 50 per cent. of their capacity?

A. No, I could not tell you the months.

Q. Did you ever take pains to inform yourself as to the capacity at which the different steel mills were running at any time during the year 1909?

A. No.

Q. Were you informed as to the extent to which they were running to their capacity in the year 1909?

A. No.

Q. Have you been as to any of the years?

A. Why, I recall distinctly that in 1912 it was difficult to get material delivered because they all claimed to be working to their capacity.

Q. That is the only year you have any recollection about?

A. The only year about which I have absolute recollection.

Q. During the period from the early part of the year 1910 to about May, 1911, when the co-operative movement was on foot, you cannot tell the different periods where prices varied on bars or any other product?

A. No, sir.

Q. And you cannot tell how much it broke at the time Topping advised that he would no longer continue in the co-operative movement?

A. No, sir.

Q. Your knowledge is very general on that, in regard to prices?

A. I do not depend upon recollection, because it is a matter of record in the office.

Q. You have records?

A. Yes, and if I wanted anything I would look at the records.

Q. Do you know whether your purchases in 1912 were the same as in 1909, or the same as any other year?

A. No.

Q. You do not know whether that was an exceptional year with you or not?

A. No, I do not know.

Q. Do you know what companies you purchased your bars from in 1912?

A. In 1912, yes; practically the Republic and Carnegie; that is, in steel bars.

Q. Do you know what percentage you gave the Carnegie and what percentage you gave to the Republic?

A. I believe we bought rather a heavier tonnage in bars in 1912 from the Republic than from Carnegie.

Q. Do you know as to the percentage in any other year?

A. No, but that would hold good in 1913 up to date.

Q. How about 1909 from the Carnegie?

A. I don't know.

Q. Did you buy a large percentage from the Carnegie in both years?

A. Let me see. We are talking about bars?

Q. Yes.

A. Prior to 1911 we used iron; we did not use steel bars. We went to steel in 1911.

Q. And when you went to steel in 1911 do you recall to what extent you gave your bar orders to the Carnegie?

A. No, sir; I can't recall.

Q. During the last two years you have given them a large proportion of your bar orders?

A. They have had bar orders all the time. That is true

of the Republic, and I think both in 1912 and 1913 we bought heavier tonnage from the Republic than we did from Carnegie.

Q. But as to the other two years you do not know whether it was heavier from the Carnegie or heavier from the Republic?

A. No.

Q. What is your best recollection?

A. Of course, as I said before, prior to 1911 we used iron bars.

Q. I mean since 1911; to 1913, inclusive, taking the period as a whole, do you know whether you bought more heavily from the Republic or more heavily from the Carnegie?

A. I should say that for three years we have bought a heavier tonnage from the Republic than we have from Carnegie.

Q. You do not remember the price that the Republic gave you on your steel bars?

A. No, I do not.

Q. Nor the price that the Carnegie gave you on steel bars?

A. No.

Q. From whom have you purchased your shapes since you became purchasing agent of the Erie?

A. The American Bridge Company, Carnegie and Jones & Laughlin.

Q. Do you recall any others?

A. There are doubtless others.

Q. That is all you remember?

A. That is all I remember right offhand.

Q. Do you recall that your purchases were heavier from the American Bridge Company and Carnegie than they were from Jones & Laughlin?

A. No, I don't recall what they were.

Q. You don't recall anything about it one way or the other?

A. As a matter of truth, I could not tell you.

Q. From whom have you purchased your wire products?

A. The American Steel & Wire Company, Roebling, the Pittsburgh Steel Company and probably others.

Q. You have no recollection as to the others?

A. Not specifically.

Q. What wire products have you purchased from the American Steel & Wire Company?

A. Oh, we buy considerable wire from them of one kind and another; we have bought wire nails from them.

Q. Do you know what percentage of wire nails you bought from the American Steel & Wire Company?

A. No, sir; I do not.

Q. Do you know whether you have a general contract, a sort of blanket contract, with the American Steel & Wire Company?

A. We have a contract with the American Steel & Wire Company.

Q. Have you a contract for shapes with Carnegie for this year?

A. I think we have not; I think it lapsed the 30th of June of this year.

Q. This contract that lapsed the 30th of June: when did it begin to run?

A. It may have begun—we make contracts either for six or twelve months.

Q. So it may have been either a year contract or a six months contract?

A. It may have been.

Q. Do you know the quantity of shapes that it called for?

A. No, I would not say, but it was probably a limited contract; probably up to a certain tonnage. That is, a certain number of tons; it may be 300 tons and it may have been 500 tons.

Q. You mean 300 tons for the entire year?

A. Yes, during the period of the contract, whatever it was, up to 300 tons.

Q. You could order to 300 tons?

A. We could if we had that call for it, and we could order 50 tons, if that was all the call we had for it.

Q. Do you have any general contract with the American Bridge Company for fabricated material?

A. No.

Q. Do you recall that you did not?

A. I am pretty sure that we did not.

Q. You would not be positive that you did not have one of those contracts calling for a certain standard of product from the American Bridge Company in fabricated steel?

A. I am reasonably sure that we did not have.

Q. From what different companies have you bought your angle bars?

A. From the Lackawanna and Carnegie.

Q. Are angle bars and splice bars practically the same thing?

A. Yes; practically the same thing.

Q. Different names for the same thing?

A. Yes.

Q. Do you know what proportion you bought from the Lackawanna and what proportion you bought from the Carnegie?

A. I couldn't tell you.

Q. Do you know whether you have more directors in common with the Lackawanna Company or with the Carnegie Company?

A. I do not know that we have got a director in common with the Lackawanna.

Q. You don't know whether you have or not?

A. No.

Q. Do you consult with the president at all in regard to the purchase of products?

A. Well, generally speaking, no.

Q. At times, yes?

A. I was just trying to think if I ever did go to him. As a matter of truth, I do not believe I ever went to him.

Q. Do you consult with any superior officer?

A. Yes; I report to the assistant to the president, and at times I talk with him.

Q. Do you recall from what different companies you purchase your tubes?

A. National Tube Company, Pittsburgh Steel Products Company, and the Globe Seamless Tube Company, Milwaukee.

Q. Do you purchase only seamless tubes from the Globe Company?

A. Yes; that is, just engine boiler tubes, locomotive tubes.

Q. Are your other tubes welded tubes?

A. No; I am talking now about locomotive tubes.

Q. What sort of tubes are those, welded tubes?

A. Seamless boiler tubes.

Q. And you buy those from the National also?

A. From the National and from the Globe, and from the Pittsburgh Steel Products Company.

Q. Are you talking only about seamless tubes at the present time?

A. That is all I am talking about now.

Q. And that is the only character of tubes that you purchase?

A. We may have got some other mechanical tube of some kind, but generally speaking, that is what we call tubes.

Q. Do you know what percentage of your purchases you gave the National Tube Company in seamless tubes?

A. No, I do not.

Q. Don't you know that it was a large percentage in seamless tubes?

A. I would say that it would approximate, say, 33 1/3 per cent. to each company. Now, it would not figure out that way, but practically that way.

Q. You divided it about equally between the three companies?

A. That was the idea, that it would be divided.

Q. Where is the Globe Seamless Company located?

A. Milwaukee.

Q. Milwaukee?

A. Yes, sir.

Q. Have you any allied line that goes out there?

A. No, sir.

Q. Chicago is the nearest you come to that?

A. Yes.

Q. Do you purchase for the entire Erie road?

A. Yes.

Q. Do you purchase for its allied lines?

A. Well, what is generally known as the Erie Railroad, all the roads known generally as the Erie.

Q. What are they?

A. The New York, Susquehanna & Western, the Chicago & Erie, New Jersey & New York.

Q. How much difference in price is there between these three companies among which you divide your seamless tubes equally?

A. There was not any difference.

Q. They are just the same?

A. All the same price.

Q. What is the difference in price between the Republic Company and the Carnegie Company on steel bars?

A. No difference.

Q. The same price?

A. Yes.

Q. Did you buy wire from anybody except the American Steel & Wire?

MR. REED: He has already testified that he bought it from Roebling.

THE WITNESS: Yes, we bought wire from Roebling, and from the Pittsburgh Steel Products Company.

By MR. COLTON:

Q. The Pittsburgh Steel Products Company?

A. The Pittsburgh Steel Company.

Q. The Pittsburgh Steel Company?

A. Yes; fence wire.

Q. Did you buy wire nails from anyone except the American Steel & Wire Company?

A. Yes, we bought wire nails from different people. We bought wire nails from jobbers at times.

Q. From any other manufacturers, other than the American Steel & Wire?

A. Yes; the Pittsburgh Steel Company.

Q. The Pittsburgh Steel Company?

A. Yes.

Q. Did you buy the same character of wire from both the American Steel & Wire Company and the Pittsburgh Steel Company?

A. No; that is to say, we have bought fence wire from both companies, but we did not buy any wire save fencing from the Pittsburgh Steel Company.

Q. Then there are certain wires that you have bought only from the American Steel & Wire Company?

A. No; I do not think so. We bought probably the same thing from Roebling.

Q. What steel wire did you buy from Roebling that was the same as the steel wire that you bought from the American Steel & Wire Company?

A. Why, plain galvanized wire.

Q. Do you recall the price that you paid Roebling for that plain galvanized wire in 1913?

A. No, I do not.

Q. Do you recall the price you paid the American Steel & Wire Company?

A. No.

Q. Do you remember whether they were the same or different for the year 1913?

A. No, I do not.

Q. Your answer would be the same for 1912?

A. Yes.

Q. And for each of the years you have been connected with the company?

A. Yes, sir; because it is a matter of record.

Q. How about shapes? From what different companies do you purchase your shapes?

A. Oh, we buy from the Republic and from Carnegie.

Q. What sort of shapes did you buy from the Republic?

A. Well, ordinary shapes. I do not know; I could not specifically tell you one shape we bought from them.

Q. Do you know whether the Republic manufactures

shapes or not, what are ordinarily known as structural shapes?

A. Well, I do not know as they do, no.

Q. Did you buy ordinary structural shapes from the Carnegie Company?

A. Yes.

Q. But you do not know whether you bought any of those from the Republic or not?

A. No, I would not say so. I think we did, however.

Q. Your fabricated material; you purchase that by letting special contracts, do you?

A. The majority of the fabricated work is done by contract, under the jurisdiction of the engineer of bridges and buildings. I would not have anything whatever to do with that.

Q. You are not connected with that?

A. No, sir.

Q. And your testimony does not concern fabricated material?

A. Not generally speaking; no, sir.

Q. To what extent have you purchased plates during the time you have been connected with the company?

A. Well, of course, we have bought a lot of plates.

Q. Could you give me any idea of the tonnage?

A. No; I could not.

Q. Could you tell me from whom you purchased them?

A. Well, we buy from the Otis Steel Company, and Worth, Lukens, and possibly others.

Q. Do you know whether you bought any from Carnegie?

A. Why, I expect we have.

Q. Could you give me the percentage that you bought from each of those companies?

A. No, I could not, sir.

Q. You have not any idea of the percentage?

A. No, sir.

Q. And you have not any idea as to the variation in prices from time to time between those different companies, have you?

A. No information, except—no, it is a matter of record. I do not charge my mind with it.

Q. Could you say during the year 1913 which different companies you have contracts with in plates?

A. Well, we have a contract with Otis, covering our fire box steel.

Q. Yes. Is that the only kind of steel that you are buying from Otis?

A. Yes, sir.

Q. Fire box steel from Otis?

A. Yes.

Q. What do you have from Lukens, Worth and Carnegie, if you know?

A. Boiler plates.

Q. Boiler plates then is the only style you are buying from those other three, or do you buy some fire box from them also?

A. No; we get our fire box from Otis only, because it is most satisfactory and meets our specifications and requirements.

Q. Yes. Now, have you any idea as to whether the prices of these three companies during the year 1913 have been the same or different?

A. Well, at the present time, and since the 30th of June—that is to say, July 1st—our contracts have been with Lukens on boiler plate.

Q. That is, you have been confined to Lukens since that time?

A. Yes.

Q. And going back of that time, can you carry in your mind as to whether the prices, as between the different companies from whom you have purchased, have been the same or different?

A. No, sir.

Q. Are there any steel products that you purchase that I have not asked you about?

A. I do not know whether there are or not. I will swear I do not.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. Collins, you have testified that certain of your purchases of seamless tube and of steel bars were let to two or three different concerns—divided up among two or three different concerns, at the same price?

A. Yes.

Q. When you refer to the sameness of price, does that mean the price first quoted to you by those companies, or the price at which the contracts were finally let?

A. The prices at which the contracts were finally let.

MR. COLTON: I object to that question, if you are using the term sameness in the sense of the sameness of the price in regard to all the different statements he has made in regard to sameness of price, because I think that does not inform the witness as to what he is answering. If it is simply the sameness of price as to these contracts which are at the same price, I have no objection to the question; otherwise I object to the question on the ground that it is misleading.

By MR. REED:

Q. Where you get variant bids in respect to a particular inquiry, do the higher bidders ever reduce their bids, Mr. Collins, in an effort to get all or a share of your business?

A. They certainly do.

Q. And is that what happened in these two cases?

A. It absolutely happened.

MR. REED: That is all.

MR. COLTON: That is all.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

JOHN D. LANDIS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. In Jenkintown, Pennsylvania.

Q. That is near Philadelphia?

A. Yes.

Q. And your office is in Philadelphia?

A. Yes.

Q. What is your present occupation?

A. Purchasing agent of the Philadelphia & Reading Railway Company and of the Central Railroad Company of New Jersey.

Q. How long have you been purchasing agent of the Philadelphia & Reading Railroad?

A. Between sixteen and seventeen years.

Q. How long have you been purchasing agent of the Central Railroad of New Jersey?

A. I think about ten or eleven years.

Q. How long have you been in the purchasing department of the Philadelphia & Reading?

A. Thirty-two years.

Q. In addition to making the purchases for those companies, do you buy also for any others?

A. The Philadelphia & Reading Coal & Iron Company and the Lehigh & Wilkes-Barre Coal Company.

Q. Those are both of considerable size, are they not?

A. The Coal & Iron Company is very large.

Q. Just so that we may get some idea of your importance as a purchaser, will you please state the railroad mileage that you act for, in round figures?

A. I have really forgotten. I suppose 1,200 miles, anyway.

Q. Can you give us any idea of the size of these two coal companies for which you buy?

A. I presume the Coal & Iron Company have 35 or 40 collieries, at least.

Q. How about the Lehigh & Wilkes-Barre Coal Company?

A. I presume they have 10 or 12.

Q. Do you know approximately the annual output of those two companies in anthracite coal?

A. I presume it is 40 per cent. of the entire output of anthracite coal.

Q. Of the United States?

A. I should think so.

Q. About what tonnage of steel products do you buy in the course of a year?

A. I should say 65,000 to 70,000 tons on an average.

Q. Do you make the purchases of the heavy rails for the railroad companies, or is that done in the president's office?

A. The president determines that.

Q. And the connection of your office with it, I suppose, is largely mechanical?

A. Yes.

Q. Do you have charge of the purchases of the other steel products?

A. Yes, sir.

Q. Will you give us some idea of the variety of the steel products which you buy?

A. Axles, bars, plates, structural material.

Q. Plain and fabricated, both?

A. Yes, sir—not very largely fabricated, because that is let under contract, but we do buy some.

Q. Do you buy sheets?

A. Sheets, tie plates, splice bars, bolts and spikes.

Q. Mine rails for the coal companies?

A. Yes, mine rails.

Q. And car wheels?

A. A few steel car wheels.

Q. Wire nails?

A. Yes.

Q. Telegraph wire?

A. Yes.

Q. Welded pipe?

A. If you mean by that, boiler tubes, I would say yes; we buy wrought iron pipe.

Q. Your welded pipe is wrought iron pipe, is it?

A. The welded pipe is wrought iron.

Q. Are your boiler tubes of seamless tubes or do you use a welded boiler tube too?

A. We use both iron and steel.

Q. The steel tube that you buy is seamless, is it, or is it welded?

A. It is a seamless tube.

Q. Do you buy on contracts for specified periods, or do you buy from time to time as you need the material?

A. That depends; on a rising market, if we could contract at the old figures, we would do it for a period maybe of six months or longer, but when we are not sure as to market conditions we are inclined to buy from month to month as the requisitions are received.

Q. So as to get the advantage, I suppose, of dropping prices?

A. I do not think a purchasing agent ought to speculate; that is all.

Q. Then you buy in both ways; sometimes on periodical contracts?

A. Yes, sir.

Q. And sometimes in lots, as you need the material?

A. Yes, sir.

Q. Before you let these contracts, or before you give your orders, do you ask quotations from different manufacturers?

A. Yes.

Q. Of these products that you have mentioned?

A. Yes.

Q. How do those quotations range in price; do they vary or are they uniform?

A. They vary.

Q. Are there any exceptions to that rule?

A. During times when the mills are filled up with work there is likely to be a number of prices the same.

Q. How about the deliveries that are offered you in such times as that?

A. When I say the prices are the same, I make this proviso, that we are compelled to buy from stock at a higher price than the other uniform bids in order to get the deliveries in time. I presume that is what you mean?

Q. No, it was not what I meant. I wanted to know just what the facts were. Take these uniform prices that are quoted to you in times when the mills are very busy. Are those offers of prices coupled with assurances of quick deliveries or of longer deliveries?

A. Longer deliveries.

Q. In order to get the material within a reasonable time do you have to pay higher prices than those?

A. Yes, sir.

Q. Now, excluding those periods from consideration and considering only the times when the mills need the business, what is your experience as to the variation or non-variation of the prices that are quoted to you?

MR. COLTON: I object to the witness testifying as to that, as he is not shown to be qualified to testify as to the particular times, or that he knows the particular times at which the mills need business and at which they do not need business.

THE WITNESS: The prices vary.

By MR. REED:

Q. Would you say that there is or is not a keen competition among the steel manufacturers for your business in these articles?

MR. COLTON: I object on the ground that it calls for a conclusion, as to a large number of products of such large character that the witness may not, and probably does not, have them all in his mind, and for the further reason that it calls for a conclusion upon a state of facts not disclosed to the court.

MR. REED: I will call counsel's attention to the fact that the witness expects to remain to be cross examined.

THE WITNESS: Yes, sir.

By MR. REED:

Q. You mean by that to say there is keen competition?

A. Yes.

Q. Do you know Mr. George F. Baker, Mr. Landis?

A. No, sir.

Q. Do you know him if you see him?

A. No.

Q. Do you know whether he is a director of either the Reading or the Central of New Jersey?

A. I think he is of the Central.

Q. Do you know that he is also a director of the Steel Corporation?

A. I only knew it recently.

Q. That is when I told you?

A. Yes.

Q. Do you know Mr. Henry C. Frick?

A. No, sir.

Q. Is he a director of either of your companies?

A. Of the Reading Railway.

Q. You know now that he is a director of the Steel Corporation too, do you?

A. Yes.

Q. Do you know Mr. Charles Steele?

A. No, sir.

Q. He is a director, is he not, of the Central Railroad of New Jersey?

A. I think he is.

Q. And he is also a director of the Steel Corporation?

A. Only since you told me.

Q. You only know that last by hearsay?

A. Yes.

Q. Has either one of those three gentlemen ever attempted in any way to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Has either one of the three ever attempted, so far as you know, to divert the business of either the Philadelphia and Reading Railway or the Central Railroad of New Jersey to the Steel Corporation?

A. No, sir.

Q. Has any director or any officer of either of those companies at any time, Mr. Landis, attempted to induce you or to instruct you to favor the Steel Corporation in awarding your orders?

A. No, sir.

Q. Have you ever favored the Steel Corporation except because of its offer of a better price, better delivery or better quality?

A. No, sir.

Q. Has any other influence, I mean outside of price, delivery or quality, determined the awarding of your orders to any supply man or material man?

MR. COLTON: Objected to on the ground that the witness is incompetent to answer.

THE WITNESS: No, sir.

By MR. REED:

Q. Do you think you would know it?

MR. COLTON: I object to the question as argumentative.

By MR. REED:

Q. (Continuing) Do you think you would know it if some influence like common directorship were operating to the disadvantage of your company, or operating to take business to the Steel Corporation which it was not meriting by the terms that it offered to you?

A. I certainly would know about it, because I place the orders.

MR. REED: You may cross examine, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. What were you doing in the year 1895?

A. In 1895 I was either chief clerk or assistant purchasing agent; I think I was assistant purchasing agent in 1895.

Q. And you were assistant purchasing agent of what different companies?

A. That was of the Philadelphia & Reading.

Q. In 1895?

A. That is eight years ago.

Q. No, 1895.

A. Yes, I was assistant purchasing agent of the Philadelphia & Reading Railway Company.

Q. Did you have any other connection at that time with the purchase of steel supplies?

A. While I was assistant purchasing agent I did not have charge of the steel purchases.

Q. When did you first have charge of the steel purchases for any of the different companies that you have represented in any capacity?

A. 1896 or 1897, when I became purchasing agent.

Q. When you became purchasing agent?

A. Yes; 1896; that is it.

Q. What steel supplies did you purchase in the years 1896 and 1897?

A. Axles, structural material, bars, plates and sheet.

Q. Anything else?

A. I do not think tie plates were used then, and we were using iron angle bars; that is my recollection. I am a little hazy back that far.

Q. From whom did you purchase steel bars at that time?

A. We have almost continuously been purchasing steel bars from the Cambria, Carnegie and Jones & Laughlin, and I think we purchased that long ago of the C. Pardee Works.

Q. Do you recollect whether you were purchasing any at that time from the many different mills that afterwards became part of the American Steel Hoop Company?

MR. REED: That is in bars?

MR. COLTON: Yes.

THE WITNESS: We never purchased anything from the American Steel Hoop Company that I recollect.

By MR. COLTON:

Q. And you do not recollect the names of their subsidiaries?

A. No.

Q. Do you recollect purchasing any steel bars from the Ohio Steel Company or the National Steel Company?

A. No, sir.

Q. The only companies that you recollect are the Cambria, Jones & Laughlin and the Carnegie?

A. And C. Pardee Works.

Q. Where are the C. Pardee Works located?

A. On the Central Railroad—it is just outside of New York here. I cannot recall just at the moment where.

Q. Do you know in what form C. Pardee gets his steel?

A. No; I think they simply roll it.

Q. Do you know whether they are re-rollers or not?

A. No, not re-rollers.

Q. When did you first go to their works, if at all?

A. Why, I have never been to their works. I have never been to their works.

Q. You do not know to what extent they buy steel on the outside for their sales, do you?

A. No. They are reputed to be manufacturers; that is about all I know.

Q. Do you know when they were first reputed to be manufacturers?

A. Ever since we have purchased from them.

Q. Do you now recall, as a matter of recollection, that you purchased anything from the Cambria Company during 1896, 1897 and 1898 in the way of steel bars?

A. I could not say that positively, but I think we did.

Q. How about Jones & Laughlin during those three years?

A. The same answer.

Q. How about Carnegie during those three years?

A. Same answer.

Q. Then you have no positive recollection as to from whom you purchased during those three years?

A. My recollection is that the orders were divided between those three or four parties. That is as definite as I can give it to you.

Q. Do you know from whom you were purchasing plates during 1896 and 1897?

A. I think I do. Worth Brothers, Lukens, both at Coatesville; Central Iron & Steel Company, at Harrisburg, and the Glasgow Iron Company at Pottstown.

Q. Did you purchase any from Carnegie?

A. We never purchased any plates from Carnegie, to the best of my recollection.

Q. From the Pencoyd Works?

A. No. Bars from the Pencoyd Works; bars and structural material.

Q. Bars?

A. Yes.

Q. Did you purchase bars from the Pencoyd Works during 1896, 1897 and 1898? Is that your recollection?

A. That is my recollection; yes, sir.

MR. REED: Do you mean eye-bars or plain bars?

THE WITNESS: Plain bars.

By MR. COLTON:

Q. Did you purchase bars from Carnegie and Cambria and Jones & Laughlin and the Pencoyd Works, to the best of your recollection, during the period from 1896 to 1900?

A. To the best of my recollection. You know, you are getting some distance back.

Q. You say to the best of your recollection. Do you mean to the best of your recollection that you did, or that you did not?

A. I believe that we did.

Q. Where did you purchase your structural material during the years 1896 to 1900?

A. As far as I can recollect, the following manufacturers have been on our list since I have been connected with the Company; that is, the Phoenix Iron Company, the Eastern Steel Company, probably they came in later, though; their plant had not started at that time; the Carnegie Steel Company, Jones & Laughlin, and the Cambria Steel Company.

Q. Now, during the period from 1896 to 1900 do you recollect as to whether you purchased any structural material from the Pencoyd Works?

A. I could not say positively as to that. I have given you the general information there, and that is all I can do as to that.

Q. What is your best recollection; that you did purchase

some structural material from the Pencoyd Works, or that you did not?

A. It is quite likely that we did.

Q. What is your best recollection as to whether you purchased any structural material from the Pencoyd Works prior to the formation of the United States Steel Corporation? That was formed in the early part of 1901.

A. We did purchase from them prior to that time—from the Pencoyd Iron Works.

Q. Could you tell to what different places the railroads with which you are connected run?

A. Yes. On the Central, from New York to Scranton, and on the Reading, from Bound Brook to Williamsport and Newbury Junction, and to Shippensburg in the other direction beyond Harrisburg, and then all through the coal regions, of course.

Q. Do you recollect the great drop that occurred in steel prices shortly prior to the formation of the United States Steel Corporation?

A. No, I do not.

Q. You have no recollection as to the prices of steel products during the year 1900?

A. No, I have not.

Q. You have no recollection, then, as to the great increase in prices that occurred about the time of the formation of the United States Steel Corporation, in steel products?

A. No, sir.

MR. REED: I object to that question, there being no evidence of any great increase in prices about the time of the formation of the Steel Corporation.

MR. COLTON: It has been proved again and again.

MR. REED: I do not think so.

By MR. COLTON:

Q. What tonnage of bars were you buying in 1900?

A. I would only have to get at it on the percentage of the whole. The purchase of steel bars was comparatively light, because we used iron.

Q. During 1900?

A. Yes, sir.

Q. Or has that continued to be the case up to the present time?

A. That has continued to be the case up to the present time.

Q. What percentage are steel bars of the total purchases of bars; can you give it roughly for the period of 1900 to 1913, inclusive?

A. I cannot do that very well.

Q. Would it be three-fourths iron, to the best of your recollection for that period?

A. You are not asking for anything positive?

Q. I am asking for your best approximate recollection.

A. I should think the iron bars were at least two-thirds.

Q. And as you go back from 1913 will it be rather more than two-thirds as we go back, or did the proportions stay about the same?

A. Approximately the same.

Q. Could you give me any idea as to your total purchases in bars for any of the years from 1900 to 1913, inclusive?

A. I could not very well do that without looking up the record.

Q. Could you state as a matter of recollection from what companies you solicited bids in 1910, on steel bars?

A. My other answer would be all that I could tell you from these five or six or seven companies that I mentioned.

Q. I did not understand you to say that you did solicit bids in any given years, though, from all of these companies. You testify that you did solicit bids from all of those companies in any given year?

A. I think I am safe in saying we did.

Q. Do you recollect that you solicited bids from the Cambria Company in 1901?

A. As I say, they have been on our list and we have asked them all to quote prices ever since I was purchasing agent.

Q. But do you now have any recollection that you did solicit bids from the Cambria Company in the year 1901?

A. Only that they had been on our list to request quotations, and we have been asking that list for quotations.

Q. As a general rule?

A. As a general rule.

Q. What contracts did you have in the year 1901?

A. I could not tell you that, sir.

Q. You do have contracts at times to cover the majority of your supplies, don't you?

A. Not necessarily.

Q. But I mean at times you have a contract to cover the majority of your supplies, don't you?

A. It depends upon the market conditions. On an ascending market we would naturally endeavor to make all the contracts we could.

Q. And you do not know whether the year 1901 was an ascending market or not?

A. No; I do not know.

Q. And you do not know whether you had contracts then or not?

A. No; I could not tell that.

Q. 1902; did you have any contracts with any different companies?

A. I would have to give you the same answer for those different years because I do not recollect.

Q. 1903; would that be the same answer?

A. I can only give you a general answer that we did have contracts on an ascending market, and on what we considered a no change or a declining market we bought from month to month.

Q. But you could not specify now the periods in which you had a declining market, a no change market and an ascending market, could you?

A. No, I do not think I could.

Q. These periods of time you do not retain in your mind?

A. No, sir.

Q. So as to fix them for any set periods?

A. Of course, I have a record of them in my office.

Q. What contracts have you for the year 1913 for bars?

A. We haven't any excepting for cold rolled steel.

Q. Do you mean cold rolled steel bars?

A. Yes; that is a very small item, however.

Q. How much is that in tonnage?

A. Oh, about five or six carloads a year.

MR. REED: This is for which year?

THE WITNESS: That has been about the average.

By MR. COLTON:

Q. With which company is that contract for cold rolled steel bars?

A. The present contract is with Jones & Laughlin.

Q. And with which company was it in 1912?

A. In 1912 we had contracts with the Cambria, C. Pardee Works and Jones & Laughlin.

Q. 1910?

A. I don't know.

Q. 1911?

A. I cannot tell.

Q. The same answer for all years back of 1911?

A. I just happen to know of these two years because they are recent.

Q. You do not recall the particular periods of time during the years 1901 to 1910 inclusive during which the prices on plates have been uniform among a large number of manufacturers, and the times in which there have been more variations on plates, do you?

A. No, sir.

Q. Is the same thing true in regard to structural steel?

A. Yes; during that period I would not know excepting that when the mills were very busy and we were promised a three or four months delivery on our orders, that then the prices were more likely to be uniform, and frequently we did not buy even at the lowest price because on extended delivery we had to pay higher prices.

Q. Now, suppose we take up a period of time such as existed during 1908, following the so-called panic, and compare that with the period of time that existed in 1909 following the announcement of Judge Gary that he would withdraw from the co-operative movement; do you now recollect how the prices of steel products in 1908 compared with the prices during 1909?

MR. REED: I object to that question because the witness has not testified anything about either the panic or the so-called co-operative movement.

THE WITNESS: No; I do not recollect. There might have been a slight difference of five cents a hundred, or something like that.

By MR. COLTON:

Q. May there not, in 1909, after February 19th, have been a drop of something like five dollars a ton in bars, for example?

A. Not to my recollection.

Q. Didn't bars go down from about \$1.40 to about \$1.05 per hundred at that time?

A. I do not know when we bought bars at \$1.05.

Q. You did not get in on that?

A. No; I guess not.

Q. Do you now have any recollection as to the extent which the mills were filled up with orders in 1908, as compared with the year 1909?

A. No.

Q. Did you ever have any knowledge as to the extent to which the mills were filled up to their capacity during those respective years?

A. No, sir.

Q. Have you ever had that for any of the years from 1900 to date; if so, state what year.

A. A year or two, the prices were higher and the mills were full.

Q. That occurred some time in 1910 or 1912; which year have you in your mind, if either of those years?

A. I think about 1911 or 1912.

Q. Now, in 1911, the early part of it, do you recall that at that time the prices were rather uniform?

A. I do not recall; possibly they were.

MR. REED: Is there anything in the record to warrant your question that the price of bars went down to \$1.05 in 1909?

MR. COLTON: It has been so testified to; I do not know whether it is a fact or not. That is my best recollection, Mr. Reed.

MR. REED: Looking at Government Exhibit 246, the lowest price there appears to be \$1.18.

MR. COLTON: I think a witness testified the other day that \$1.05 was the lowest price he got it at. He testified to that, as I remember.

By MR. COLTON:

Q. Do you recall that following the announcement by Mr. Topping that he would withdraw from the so-called co-operative movement, about May, 1911, there was a drop in prices in 1911 in steel products?

MR. REED: I object to that, because there is no evidence from this witness as to any announcement by Mr. Topping.

THE WITNESS: No, I have no knowledge of that.

By MR. COLTON:

Q. Have you any recollection of any drop in prices in 1911 in steel products?

A. No, I have not.

Q. Do you know how the prices of plates varied during the years 1901 to 1905, inclusive?

A. No, I do not.

Q. Do you know the extent to which prices were uniform during that period?

A. No, I do not.

Q. Now, you spoke of—or at least I understood you to speak of a certain uniformity of price, to the best of your recollection, existing during some time in 1911.

MR. REED: I don't remember any such testimony.

MR. COLTON: I think he did so testify, and I am just asking him now.

THE WITNESS: The only recollection I can give you is that when the mills were filled up with work and the deliveries were extended the prices were more nearly uniform than at any other time. I can not keep in mind when the prices had advanced.

By MR. COLTON:

Q. I understood you to say a moment ago that you could not tell me any of the times, and never were informed as to when the mills were full and running to their capacity, and

when they were half full or three-quarters full, that you never were informed in regard to those conditions.

A. The only way I could assume that is because of the extended delivery.

Q. Do you undertake to testify, as a matter of fact, that the prices during 1908, at which time the mills were running to about one-half of their capacity, were less uniform than they were in the year 1909, during which period of time the mills were running from 50 to 80 per cent. of their capacity?

A. We always found them to be less uniform when the mills were less busy. I do not know about that; I can only give you a general statement, as I did before.

Q. What steps did you take during the years 1901, 1902, 1903, 1904 and 1905, whenever there were uniform prices, to find out whether the mills were running full or not?

A. I did not take any steps; only the time of delivery showed that to me; that is all. If a mill would say that they could not deliver in three months, it would indicate that they were pretty busy.

Q. Don't you know that there was a plate pool during the years 1901 to 1905?

A. No, sir; I do not know anything about any pools.

Q. You noticed a uniformity of prices at times?

A. Yes.

Q. And they extended over considerable periods of time, at different periods?

A. Now, what are you referring to?

Q. A period of uniform prices.

A. No, but specifically.

Q. You want different products?

A. Yes.

Q. Suppose you take plates; there have been periods of times for which they were uniform, have there not?

A. Yes.

Q. And they have at times extended over considerable periods of time?

A. I do not know how long that period might have been.

Q. But there have been such periods?

A. There have been such periods, yes.

Q. And is the same thing true of structural?

A. Only at times, when, as I say, the mills were very busy.

Q. Now, don't you know, as a matter of fact, that all during the period of 1901 to 1904, inclusive, there was a tight pool that had a minimum price on structural? Didn't you become aware of that fact as a purchaser of steel products?

A. That there was a minimum price?

Q. Yes.

A. I will tell you why I did not. The Phoenix Iron Company and the Eastern Steel Company are located immediately along the line of our road, and they frequently quoted f. o. b. cars at their plants; the Pittsburgh manufacturers had to quote f. o. b. destination, and we found it to our advantage to buy along the line of our road on account of the freight.

Q. You purchased what sort of material from those two companies?

A. Structural material.

Q. Chiefly from those two companies?

A. Yes.

Q. What sort of structural do you purchase from those two companies?

A. Angles, channels, T's and Z's—almost everything in the line of structural material.

Q. Now, is that fabricated or unfabricated?

A. Unfabricated.

Q. You have a special purchasing department for the fabricated steel, have you?

A. Yes; that is generally let under contract. We buy a little of it.

Q. Now, have there been periods of such uniform prices in sheets?

A. Never, that I know of.

Q. What sort of sheets do you buy?

A. We buy chute steel and galvanized plates.

Q. Then I take it from what you have said there has been greater uniformity in price in respect to plates than there has been in respect to sheets; is that correct?

A. That may be.

Q. Compare plates and bars as regards the extent of uni-

formity. Is there more uniformity in respect to plates or in respect to bars, so far as you have become acquainted with the situation?

MR. REED: What period are you speaking of now, Mr. Colton?

MR. COLTON: From 1901 to 1913.

THE WITNESS: Well, if there was any difference there was a greater uniformity in plates than bars.

By MR. COLTON:

Q. And less uniformity in sheets than in either of those two products, to the best of your recollection, was there?

A. Possibly.

Q. Now, I did ask you what sort of sheets you bought, but will you answer that again? I want to get that down.

A. Excuse me.

Q. The kind of sheets that you buy?

A. Chute, galvanized iron, jacket; that is all that I have in mind now.

Q. What is this chute galvanized iron? Does that mean——

A. (Interposing) No; chute is one thing and galvanized is another.

Q. Oh, I will separate my questions, then. Are galvanized iron sheets iron sheets or are they steel sheets?

A. Well, they are half and half. As a general thing we know we are getting steel when we say "galvanized sheets" and when we ask for galvanized iron sheets we get iron.

Q. You do buy galvanized steel sheets as well as galvanized iron sheets, do you?

A. Yes, sir.

Q. From what different manufacturers have you bought galvanized steel sheets, say, for the period 1901 to 1910?

A. Well, I do not know. If you will come more nearly to date I could probably tell you.

Q. We will first get it for that earlier period, and then we will come down to date on it.

A. I would not like to state definitely as to that.

Q. You do not recollect what different concerns you were

buying galvanized steel sheets from during the period 1901 to 1910?

A. No; because I am not sure whether we bought steel at that time.

Q. What is the first year that you are sure that you bought any steel sheets?

A. I suppose about four years ago; something like that would be safe.

Q. It would be either along about 1910 or 1911, then, would it?

A. Yes, sir.

Q. You are positive that you bought galvanized steel sheets in the year 1911, are you?

A. Yes; I think so.

Q. What different concerns did you buy galvanized steel sheets from during the year 1911?

A. From the McCullough Iron Company, at Wilmington, and different brokers in Philadelphia, and, possibly, the American Sheet & Tin Plate Company.

Q. What is the first year that you are sure you did purchase from the American Sheet & Tin Plate Company, if you are sure of any year?

A. Well, I know we did in 1912.

Q. Did you have a contract with them in 1912?

A. No, sir.

Q. How much tonnage of galvanized sheets did you purchase from them during the year 1912?

A. I could not tell you that. Our consumption of galvanized sheets is not very large.

Q. Then you are not very familiar with the sheet market for any period, are you?

A. Excepting the chute.

Q. Excepting the chute?

A. Yes.

Q. Well, I mean this galvanized sheet.

A. No, sir.

Q. You are not very familiar with the market or prices in that style of sheets?

A. No; I could not give you the prices now.

Q. Could you give me the variations in prices for any one year in galvanized sheets as between the different manufacturers?

A. The McCullough Iron Company were generally the lowest bidders.

Q. Did you buy both iron and steel from them?

A. The iron we bought more frequently from the Alan Wood Iron & Steel Company.

Q. The only different companies that I have for galvanized sheets, from which you have testified you purchased galvanized steel sheets, are the American Sheet & Tin Plate Company, and McCullough, and certain brokers. Can you think of anybody else?

A. No, I do not, now.

Q. What are these chute sheets? What purpose is that used for?

A. It covers the chutes over which the coal runs into the cars from the mines.

Q. How thick is that sheet?

A. They range from—let us say, No. 12, 14 and 16; principally 14 and 16.

Q. 14 and 16 inches?

A. No; thickness.

Q. That is the gauge?

A. Yes.

Q. And the gauge goes by thickness?

A. Yes.

Q. What character of steel is that?

A. It is probably the cheapest sheet steel on the market.

Q. It is low grade sheet steel?

A. Yes, sir.

Q. From what different companies do you get this low grade sheet steel?

A. Principally from John Wood & Brothers Company, Alan Wood Iron & Steel Company, John Wood, Jr., & Company, who are brokers; I do not know whom they represent; probably the Allegheny Steel Company; and the American Sheet & Tin Plate.

Q. What contracts, if any, did you have with the American

Sheet & Tin Plate Company for this low grade chute steel during the year 1913?

A. None.

Q. During the year 1912?

A. We never had any contract with them on the chute steel.

Q. Did you have any contracts with any of these different companies?

A. For chute steel?

Q. Yes.

A. We might have had a contract extending over two months or something like that.

Q. Could you give any approximation as to the per cent. that you have given to these different companies of chute steel?

A. The orders were principally divided between John Wood and Alan Wood. They had mills right along the line of our road.

Q. They are located right on your line?

A. Yes.

Q. It is a low grade product, and the freight rate is quite an item with it, I suppose?

A. I presume it is. I do not mean to say that they make only low grade material.

Q. Oh, no.

A. They make the highest grade, too.

Q. But you buy this low grade material from them for this purpose?

A. Yes.

Q. What is this jacket sheet used for?

A. That is for locomotives.

Q. What sort of sheet is that? What gauge?

MR. REED: That is a planished sheet, is it not?

THE WITNESS: No. Well, I guess probably it is planished steel. It is .065 or .085; something like that in thickness. The Birmingham or decimal wire gauge.

By MR. COLTON:

Q. And is this a low grade sheet or a high grade sheet?

A. Jacket sheet is not a high priced steel.

Q. Would you give the different companies from which you purchased that? First, give the different companies from 1901 to 1910 from whom you purchased that character of steel?

A. I do not know whether we purchased jacket steel that far back. We used to use iron for that purpose.

Q. What is the first year that you recollect that you did purchase jacket steel?

A. I could not very well tell you. Probably four or five years; something like that.

Q. Suppose you take the year 1911; would you have a positive recollection that you did purchase jacket steel during that year?

A. That is, two years ago?

Q. Yes.

A. Yes.

Q. 1910; would you have a positive recollection that you purchased it during that year, or do you have a positive recollection that you purchased it?

A. No, not positive. It has been some few years. That is all I can say.

Q. Take 1911; that is the first year that you have a positive recollection that you purchased it? From what different companies did you purchase jacket steel during the year 1911?

A. Alan Wood, John Wood, American Sheet & Tin Plate.

Q. Can you tell how you divided that purchase among those three different companies?

A. No, but the American Sheet & Tin Plate got very little of it, because of their location especially.

Q. Then your testimony in regard to jacket sheet steel is that it applies only to the last two years, that you can be certain of, since 1911?

A. I will say that is all that I can be positive about.

Q. Now, take tie plates. When did you first begin to buy steel tie plates, to the best of your recollection?

A. I presume about four years ago.

Q. You purchased that for about four years?

A. Yes.

Q. From what different companies have you purchased tie plates during the last four years?

A. From the Pennsylvania Steel Company; Dilworth, Porter & Company, and Pittsburgh Forge & Iron Company.

Q. Any other companies?

A. Not that I recall.

Q. Did you know that the Dilworth Company got practically all of its raw steel from the Carnegie Steel Company?

A. No, sir.

Q. What do you pay per ton for tie plates?

A. The prices range from \$1.45 per 100 pounds to \$1.65, depending upon market conditions.

Q. Have you observed periods of uniformity in price on tie plates?

A. No, sir.

Q. Tie plates have not had these periods of uniformity, to the best of your recollection?

A. I would not like to say that. We got our tie plates for a couple of years almost entirely from the Pennsylvania Steel Company because they had the rolls to put the plates in of our size, that the other mills did not have.

Q. So, during those two years you felt as if you were sort of out of the general market for the purchase of tie plates?

A. I tried to get in touch with it as near as I could, but we could only get our particular form from the mill that had the particular rolls.

Q. You do not mean to say that there were not other mills in the country that could roll tie plates?

A. If they had put in the rolls, they could, but they wanted us to give a guarantee of a certain sized order to make up the rolls. It is an expensive operation.

Q. As I understand it, you wanted a particular style of tie plates that called for special rolls, and the only company that wanted to take your order under those circumstances was the Pennsylvania Company?

A. Yes, at that time; it is a little different now.

Q. When you say "now" do you mean the last two years?

A. This year.

Q. What different companies are you purchasing from this last year?

A. The Cambria Steel and Pennsylvania Steel and Dilworth, Porter & Company.

Q. And this last year is the only year that you have given your orders generally to several different companies, so far as you recollect?

A. No; when we used smaller plates there were two or three companies that had the rolls.

Q. For what years did you give your tie plate orders to other companies prior to this time that you had the contract with the Pennsylvania Company?

A. Just immediately before, because it was at that time that the size of plate was changed, and before that the three parties that I mentioned there probably supplied them.

Q. What is that?

A. The three parties that I mentioned there; that is, Dilworth, Porter & Company, Pittsburgh Forge & Iron Company and the Pennsylvania Steel Company, furnished them.

Q. Take bolts: from what different companies have you purchased those?

A. We make a great many of our own bolts and our requirements have been principally for iron bolts.

Q. So that you do not feel that you are in a position to testify in regard to the prices and variation of prices on bolts; is that correct?

A. If you would say steel bolts.

Q. Yes, steel bolts.

A. No, sir.

Q. From what different companies have you bought your mine rails?

A. The Williamsport Rail Company, Pennsylvania Steel Company, Carnegie Steel Company and possibly the Cambria Steel Company.

Q. How long have you been purchasing steel mine rails?

A. For a great many years.

Q. Have you noticed these periods of uniformity in the purchase of mine rails?

A. No; they vary a good deal.

Q. What is the extent of the variation in regard to mine steel rails, as between the different mills?

A. You mean at the same time?

Q. Yes, at the same time.

A. It might be as much as three or four dollars a ton. You understand that in mine rails re-rollers are used.

Q. And in getting these re-rolled rails, you get a considerable variation as compared with other rails, or do you get it as between all the other rails?

A. You might say we get it between them all.

Q. Is the re-rolled rail usually a little cheaper than the other style of rail?

A. Usually, I guess it is.

Q. These re-rollers do not need to have any mill for the manufacture of billets?

A. No.

Q. And there are a considerable number of these re-rollers in the country around there; that is, if you know?

A. I know there is one mill, the mill we buy from.

Q. What mill is that?

A. The Williamsport.

Q. Do you buy re-rolled rails from the Carnegie Company?

A. No, sir.

Q. Theirs is a steel rail?

A. So are these others.

Q. I understand, but I mean steel rails on their original rolling, instead of being re-rolled; made of new steel?

A. Yes, sir.

Q. Did you say that you bought from the Cambria Company?

A. Yes, sir.

Q. I suppose the Cambria rails are made of new steel too?

A. Yes, sir.

Q. Do you know what price you paid the Carnegie Company for its steel mine rails in 1913?

A. I cannot tell you positively about that.

Q. Do you know what price you paid the Cambria Company in 1913?

A. I did not buy any of the Cambria in 1913.

Q. Of steel rails made of new steel did you buy from any other company in 1913 than the Carnegie?

A. We got some from the Pennsylvania Steel Company.

Q. Did you buy them at the same time from different companies?

A. No.

Q. Do you know whether you submitted the tonnage of steel that you gave to Carnegie or offered it to the Pennsylvania, to see what they would bid on it, at the same time you offered it to the Carnegie?

A. Naturally.

Q. Well, did you do it?

A. Before we place a contract we canvass the market, yes.

Q. But what I asked you was whether you have any recollection of having done that in this particular case.

A. Yes; we asked them all.

Q. What do you mean by all?

A. The manufacturers of the rails.

Q. But who are they? You see I do not know these things.

A. I just told you; the Cambria, Pennsylvania Steel Company and the Carnegie Steel Company.

Q. What is the weight of those rails?

A. They are principally 25's and 40's.

Q. What is your total tonnage in the purchase of that character of rails?

A. I suppose two or three thousand tons a year.

Q. Could you give me the percentage of your purchases in rails made of new steel that you have given to the Carnegie during the last four years?

A. No, I could not do that.

Q. Could you do it for any year?

A. Well, for 1912, probably all the new mine rails we bought from Carnegie because their price was lowest, but the percentage of purchase of new rails was comparatively small because we could buy the re-rollers still cheaper.

Q. And as a general rule those re-rolled rails you could buy cheaper than rails made of new steel?

A. Not always.

Q. But is that a general rule?

A. That is the general rule, yes. It depends a good deal upon the price of the scrap steel rail, you know. that is sold on the market.

Q. You mean the price of scrap steel?

A. Scrap steel rail.

Q. They cannot re-roll these rails, then, from anything except scrap steel rails? They do not re-roll it from any other form of scrap steel?

A. I do not think so; it is entirely from rails.

Q. You only purchase a few car wheels?

A. You mean steel car wheels?

Q. Yes.

A. Yes, we use what they call a bolted wheel on passenger cars.

Q. Have you noticed periods of uniformity in the price of these steel car wheels?

A. No, sir.

Q. From whom do you buy your wire nails?

A. We have a contract now with the Cambria Steel Company for a small quantity, and I think prior to that we bought the coated ones from Pierson & Company.

Q. What quantity of nails do you buy per year?

A. I do not know; we bought some coated nails. It is divided between the two. Of course the consumption is pretty large, but I could not state it exactly.

Q. Of coated nails?

A. Cement coated; they stick better when put into the wood.

Q. They are made of steel wire and coated?

A. Yes.

Q. Do you know from whom you were purchasing steel nails from 1901 to 1910?

A. No, sir.

Q. Do you know that you purchased largely from the American Steel & Wire Company during the period 1901 to 1910?

A. No, sir.

Q. You do not recall?

A. No, sir. For a year or two we have been getting our nails from Pierson, until the Cambria came in and quoted a lower price.

Q. Cambria, so far as you know, has been in the market just for the last few years?

A. Yes; not very long. If they were, I do not know of it.

Q. From whom do you get your seamless boiler tubes?

A. From the Delaware Steel Tube Works.

Q. Where is that located?

A. At Auburn, Pennsylvania.

Q. Do you buy all of your seamless tubes from that company?

A. We have until the last order; we are trying out some other makes to know whether they would answer as well. You understand, we use principally iron tubes.

Q. Then you are not much in the seamless tube market?

A. Not much, except for safe ends.

Q. You have superior officers that you consult at times in reference to your purchases, have you not?

A. No; I have authority to make purchases.

Q. Have you never conferred with any superior officers in respect to purchases?

A. I might, very occasionally, on a large purchase.

Q. Now, axles: from whom do you get your steel axles?

A. Principally, I should say, from Cambria Steel Company; some from the Midvale and some from the Bethlehem.

Q. How long has the Cambria been making axles, so far as you know?

A. I do not know. A dozen years, I should say, anyway.

Q. Do you find periods of uniformity in respect to axles?

A. No, not very much.

MR. COLTON: That is all.

(Whereupon an adjournment was taken until Monday, December 1, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-FIRST DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Monday, December 1, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON
and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR.
SEVERANCE and MR. BOLLING.

JOSEPH B. ANDREWS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where is your home?

A. Newport, Kentucky.

Q. What is your business?

A. In the iron and steel business.

Q. With what iron or steel companies are you connected?

A. I am connected with the Andrews Steel Company and the Newport Rolling Mill Company.

Q. What is your relation to the Andrews Steel Company?

A. I am president.

Q. How long have you been president of that company?

A. Since 1910.

Q. Previous to that time were you connected with that company?

A. I was vice-president.

Q. For how long a period?

A. Since the company was incorporated; that is, about 1907.

Q. What is your relation to the Newport Rolling Mill Company?

A. I am vice-president.

Q. How long have you been vice-president?

A. I have been secretary or vice-president of the Newport Rolling Mill Company since about 1901, I think; some years I would be secretary and some years I would be vice-president.

Q. When you were secretary of the company were your relations to it much different from what they are when you are vice-president?

A. Practically the same.

Q. Were you during the time you were secretary, and, since you have been vice-president, have you been familiar with the buying and selling departments?

A. Yes.

MR. DICKINSON: You are speaking of the Newport Company?

MR. SEVERANCE: Yes.

By MR. SEVERANCE:

Q. Have you always been familiar with the buying and selling departments of the Andrews Steel Company during your incumbency of the vice-presidency or the presidency of that company?

A. Yes.

Q. Taking up first the Andrews Steel Company, which you say was incorporated in 1907, what does that company manufacture?

A. Sheet bars, billets, slabs, ingots and blooms.

Q. When did the company commence its operations? You say it was formed in 1907.

A. I am not sure whether it incorporated in the fall of 1906 or the spring of 1907. It commenced operations in 1908.

Q. That is, it was built as a new plant?

A. Yes; it was a new plant.

Q. What was the capacity of the Andrews Steel Company in tons at the time it was built?

A. The Andrews Steel Company was first started with three open hearth furnaces; the capacity was about 75,000 tons a year at the start; that was its normal capacity; what it could get out; but it did not get out that much at the start.

Q. Has that capacity been increased at any time since 1907?

A. Its capacity was increased in 1910 by the addition of one more open hearth furnace, and increased this summer by the addition of two furnaces, so that its capacity now is about 150,000 tons normally.

MR. DICKINSON: Is that ingots?

THE WITNESS: That is the finished product of blooms, billets and sheet bars. Naturally there is a little larger capacity of ingots than there would be of the finished product.

By MR. SEVERANCE:

Q. Can you give the percentage or the capacity in ingots?

A. Well, it would vary, depending on the crop that is taken of the ingots to produce the finished product. On some articles we are compelled to take a rather large crop; sometimes twenty-five or thirty, and sometimes even forty per cent. crop, but that is abnormal; the average crop I should say would be about fifteen per cent.

Q. So that your production of ingots would be about 15 per cent. more than the 150,000 tons?

A. Yes.

MR. DICKINSON: Would that same percentage run on back? I am just asking this so that it may shorten the cross examination. Suppose you ask him what the average would be in ingots.

By MR. SEVERANCE:

Q. The average of 15 per cent. would apply the same when you had 150,000 tons as it would when you had 50,000 tons?

A. Naturally, yes.

Q. Where does the Andrews Steel Company market its product, and where has it marketed its product since it commenced business?

A. In Ohio, Kentucky and Illinois, principally. There are other markets that we reach. We send some to the Pacific coast, not a great deal; and also in Indiana.

Q. Did the Andrews Steel Company sell any portion of its billets or sheet bars to the Newport Rolling Mill?

A. It sells all of the requirements of the Newport Rolling Mill Company.

Q. And what are the requirements of the Newport Rolling Mill Company?

A. With the exception of the times when it cannot furnish it. During the flood in the Ohio Valley this last spring the Newport Company bought some sheet bars on the outside. The requirements of the Newport Rolling Mill Company are, running full, 50,000 tons a year.

Q. Of sheet bars?

A. Yes.

Q. They do not use billets?

A. They might buy five or ten tons of billets for forging purposes.

Q. But that is practically nothing?

A. Practically nothing.

Q. Then at the present time the annual requirements of the Newport Rolling Mill Company are about 50,000 tons in bars?

A. Yes.

Q. And the Andrews Steel Company has for sale on the outside about 100,000 tons if they are running full?

A. Yes.

Q. Have the requirements of the Newport Rolling Mill Company increased since 1907 or 1908, when the Steel Company went into business?

A. The capacity of the plant is greater because of increasing output on the same equipment that they used to have.

Q. The requirements are greater than they were then?

A. Yes.

Q. How much greater are they than they were five years ago, when the Andrews Steel Company commenced business?

A. Their capacity at that time was probably 35,000 tons; 30,000 to 35,000 tons in 1907.

Q. What was the capacity of the Newport Rolling Mill Company in 1901, when you became secretary of that company?

A. The capacity at that time was in the neighborhood of 25,000 tons.

Q. Returning now to the Andrews Steel Company—I merely asked about the Rolling Mill Company because I wanted to see how much of the bars and billets the steel company had to sell—in what form do you sell most of your steel product outside of what goes to the Newport Rolling Mill Company? In the form of billets, bars or blooms?

A. Billets and sheet bars.

Q. Which has the greater proportion?

A. It varies. At times there is a greater demand for sheet bars, and we can sell more of the sheet bars, and at other times we can sell more as billets. It is not regular.

Q. It depends on the state of the market and the demand?

A. Yes. Sometimes the billet market is such that there is more demand for the billets than for sheet bars, and sometimes there is more of a demand for the sheet bars; and we sell our product according to which one pays us the better.

Q. Can you state the names of any concerns that are competitors of yours in the sale of sheet bars or billets in the territory you have mentioned? I mean, competitors of the Andrews Steel Company.

A. Yes.

Q. Will you name them?

A. The Carnegie Steel Company——

MR. DICKINSON: Do you ask for both? Is he to give both or is he to separate them, or are they the same?

By MR. SEVERANCE:

Q. Do the same people make sheet bars and billets generally?

A. Generally, yes.

MR. DICKINSON: Then this answer applies to both?

THE WITNESS: Do you wish billets or sheet bars?

By MR. SEVERANCE:

Q. Can you give them separately? Suppose you give first billets and then sheet bars; the competitors in the billet market and in the sheet bar market.

A. In billets, the Carnegie Steel Company, the Youngstown Sheet & Tube Company, the Republic Iron & Steel Company, the Carbon Steel Company, the Portsmouth Steel Company, the Inland Steel Company, at times the other branches of the Steel Corporation—that is, they sell billets from the Tennessee Coal, Iron & Railroad Company, and they also sell them from the Illinois Steel Company, the Cambria Steel Company—although we do not hear much of them in our territory; the Lackawanna Steel Company—they sell, but we do not hear much of them, because of their position, their location being such that the freights are against them.

Q. How about Brier Hill?

A. The Brier Hill Company has not as yet produced any billets, to my knowledge. They are just starting their new plant.

Q. Were there some other companies that were taken over by the Brier Hill Company?

A. There were two sheet mills taken over by the Brier Hill Steel Company.

Q. But no billet mills?

A. They are erecting their own steel plant; building it.

Q. Do Jones & Laughlin sell billets?

A. I forgot Jones & Laughlin. They do; although we do not hear much from them.

Q. Do the La Belle Iron Works ever sell billets?

A. Yes; the La Belle Iron Works do. I forgot them. They compete on some of our trade.

Q. As to that market in billets in which you sell and in which these competitors of yours sell: I want to ask you whether, during the period since the Andrews Steel Company went into the business, 1908, that has been an open, free, competitive market in billets.

A. Yes.

Q. Have there been any agreements between your com-

pany and any of these other companies as to the price they should charge for billets, or have you sold at your own price?

A. We sell at our own price. Sometimes it is at our customer's price.

Q. You sell at the best price you can get?

A. Yes.

Q. You are not governed by any agreements of your competitors; is that true?

A. Yes.

Q. Has the Andrews Steel Company any blast furnaces?

A. No. We buy our pig iron.

Q. Where do you buy your pig iron?

A. Do you want the names of the concerns?

Q. First, from what districts do you get it?

A. We buy from the Birmingham district, Ironton, sometimes the Valley, that is, the district around Youngstown, Ohio, the Valley district; Columbus, Ohio; Cleveland; we have bought at Hamilton, Ohio, when that little furnace was in operation; there was a little furnace in operation there for a while, but not now.

Q. During this period that you have been buying pig iron, what percentage of that pig iron have you bought from the Birmingham district?

A. We have probably bought 40 per cent. from the Birmingham district.

Q. How much of it, if any, have you bought from the Tennessee Coal, Iron & Railroad Company?

A. We bought probably 40 to 45 per cent. from the Birmingham district; probably 30 to 40 per cent. of that from the Tennessee Coal, Iron & Railroad Company. There are two other producers of basic pig iron in the Birmingham district, one of them the Woodward Iron & Steel Company. They do not regularly make basic. They have put in their facilities to make basic, but they generally confine their sales to foundry iron. I think it probably pays them a little better. The Southern Iron & Steel Company has intermittently been a seller of basic iron during the last four or five years. They have had reorganizations, and consequently have not operated in full, and they use a good bit of their own pig iron.

Q. What railroad are you located on?

A. On the Louisville & Nashville Railroad.

Q. Then you are on the same line as Birmingham?

A. Yes.

Q. And Birmingham pig goes up into your country more or less for foundry purposes, does it not?

A. Birmingham pig iron is used quite a good deal in the Cincinnati market, and even further north, because it makes a better mixture in connection with the northern pig iron. They do not like to use one without the other. I think it makes a better mixture.

Q. That is, you prefer that, do you, for your use?

A. I was talking about the foundries. They buy northern and southern, and make their mixture, you see. Naturally, up in the Chicago district and Cleveland, they can generally get northern pig iron cheaper than they can southern, but the southern pig iron has properties that are necessary to their mixture to get the best results.

Q. That is for foundry work?

A. Yes; for foundry work.

Q. This market for pig iron in which you have purchased, or as to which you have given the various districts from which you have secured your pig iron: will you tell us whether that market has been an open, free, competitive market during the time you have purchased pig iron?

MR. DICKINSON: This is objected to because it calls for the opinion of the witness and his conclusion as to whether a market has been open and competitive, without showing the facts upon which he bases that statement, or his knowledge of what constitutes an open and competitive market.

By MR. SEVERANCE:

Q. You may answer the question. That objection is for the record.

A. We have always found a difference in prices and a competitive market.

Q. That is, the different sellers have at the same time quoted you varying prices?

A. Varying prices. Sometimes there would be one or two that would probably quote the same price.

Q. Has that been usual or unusual?

A. We would send out inquiries to probably eight or ten people, and out of the eight or ten people there probably were one or two where the prices would happen to be the same.

Q. Aside from that, they would be varying?

A. Yes.

Q. That has been your experience during the five years you have been in the market for pig iron?

A. Yes.

Q. Well, that looks competitive. Now, coming to the product of the Newport Rolling Mill: what is the principal product they make—sheets?

A. They make black and galvanized sheets, and they form roofing products from the same.

Q. And where is the market for the product of the Newport Rolling Mill Company?

A. It is in the immediate vicinity of Cincinnati, south, southwest and west.

Q. Has that territory been about the same during all the time that you have been in the business?

A. The majority of our product has been marketed in that territory all the time.

Q. Can you state what competitors you have had, or name as many as you can conveniently, in the sale of sheets during the last ten or twelve years?

A. The American Sheet & Tin Plate Company; Youngstown Sheet & Tube Company; Youngstown Iron & Steel Company; Stark Rolling Mill Company; Canton Sheet Steel Company; Carnahan Sheet & Tin Plate Company; Jobe Iron & Steel Company; Fannin & McCullough.

Q. Where are they located?

A. They are now operating the plant of the Jobe Iron & Steel Company; the plant which was formerly operated by the Jobe Iron & Steel Company. The Inland Steel Company; National Enameling and Stamping Company.

MR. DICKINSON: The National Enameling & Stamping Company?

THE WITNESS: Yes. The Parkersburg Iron & Steel Company; DeForest Sheet & Tin Plate Company; two sheet mills that have been taken over by the Brier Hill Steel Company.

By MR. SEVERANCE:

Q. Is there a Wheeling Company?

A. Portsmouth Steel Company; Wheeling Corrugating Company; the American Rolling Mill Company; Phillips Sheet & Tin Plate Company. There are some few others, but I cannot recall them now.

Q. Well, those are the ones that come to your mind?

A. Those are the ones that sell the most.

MR. DICKINSON: I understand you to say all of those have been competitors for ten or twelve years?

MR. SEVERANCE: During the last ten or twelve years.

MR. DICKINSON: You asked him about those who have been competitors during the last ten or twelve years.

MR. SEVERANCE: Yes.

MR. DICKINSON: "During" would mean throughout.

THE WITNESS: Portsmouth has not been making sheets throughout the entire time; Fannin & McCullough have not been making sheets throughout the entire time, and the Jobe Iron & Steel Company has not been making sheets throughout that entire time, and the Canton Sheet Steel Company has not.

By MR. SEVERANCE:

Q. Well, suppose I ask you this list, and you can tell me how long they have been in the business. American Sheet & Tin Plate have been during the whole time?

A. Yes, sir.

Q. Youngstown Sheet & Tube?

A. I think they started in 1901; about 1901.

Q. The Youngstown Iron & Steel?

A. I think they started about the same time; maybe two or three years later.

Q. Stark Rolling Mill?

A. They have been in existence that long.

Q. The Canton Sheet Steel Company?

A. They started, I think, two or three years ago.

Q. And Carnahan?

A. Carnahan, I think, have been in business ten years; about ten or twelve years.

Q. The Jobe Iron & Steel?

A. The Jobe Iron & Steel Company was started in 1908, and, I think, ran until 1911.

Q. Then it was taken over by Fannin & McCullough?

A. Fannin & McCullough started the sheet mill about a year ago.

Q. The Inland Steel?

A. The Inland Steel has been making sheets that long.

Q. The National Enameling & Stamping Company?

A. The National Enameling and Stamping Company have been making black plate or sheets that long.

Q. Parkersburg?

A. Parkersburg, I think, have been making sheets about twelve years.

Q. DeForest Sheet & Tin Plate?

A. DeForest—the mill has been running about that long. I do not know whether it has been always operated under the name of DeForest or not.

Q. It has been in the market, or its products have been in the market?

A. Yes.

Q. Those two sheet mills, you say, were taken over by the Brier Hill?

A. I am not certain about DeForest. There are three or four concerns in Niles, and they have changed names back and forth, and I could not say for certain whether they have been marketing sheets that long. There was W. A. Thomas, under the name of the Thomas Steel Company, and I think he had it under another name first.

Q. Now, you spoke of two concerns that have been taken over by the Brier Hill.

A. That was the Thomas Steel Company and, I think, the Empire Steel & Iron Company.

Q. How long have they been in business?

A. About the same length of time.

Q. Ten or twelve years?

A. Yes, I think so.

Q. And the Portsmouth Steel?

A. The Portsmouth Steel Company is an old concern; the plant is an old plant. They have later reorganized it, I think; about four or five years ago; enlarged it and gone into the manufacture of sheets. They used to make billets, heavy sheets, prior to that time.

Q. The Wheeling Corrugating Company?

A. The Wheeling has been in existence a long time; fifteen or twenty years; maybe longer.

Q. The American Rolling Mill Company?

A. The American Rolling Mill Company was organized about 1899, I think.

Q. 1899?

A. Yes, about that.

Q. Previous to 1901, then?

A. Yes.

Q. The Phillips Sheet & Tin Plate Company?

A. I don't know exactly how long they have been in existence. They have been in existence a number of years, though.

Q. I do not understand, Mr. Andrews, that you say that is a complete list, but those are all that come to your mind at the present time?

A. There are a few other concerns that occasionally sell. They are mostly tin mills, and they sell their black plate, and compete with the sheet mills. Ordinarily I think they tin up most of their material. We do not hear from them much. McKeesport and Pope, and people like that, I think.

Q. Now, will you state whether or not, during the period since you have become secretary of the Newport Rolling Mill Company, in 1901, that company has operated independently, or has it operated under agreements with its competitors as to prices?

A. Independently.

Q. At all times?

A. At all times.

Q. Is there or is there not a certain territory in which the mills located as yours are located have a certain advantage over mills in other localities, due to freight rates?

A. There are localities where we have advantages, and there are others where we have disadvantages.

Q. What is the territory in which you have a trade advantage by reason of feight?

A. In the Cincinnati market and the immediate vicinity thereof, to the south, and, over some of the mills, to the southwest, not to the extreme west, however.

Q. Previous to the time the Andrews Steel Company was formed, where did the Newport Rolling Mill Company secure its supply of sheet bars?

A. It bought them in the open market to the best advantage possible.

Q. From whom did you make the larger share of your purchases?

A. We used to buy our sheet bars from the Ohio Steel Company of Youngstown, and from King, Gilbert, Warner Company, Columbus, Ohio. They were afterwards absorbed by the National Steel Company, and we bought our steel from the National Steel Company. After the National Steel Company was taken over by the Carnegie, we bought our bars from the Carnegie Steel Company.

Q. What percentage of your requirements have you bought from those Ohio mills?

MR. DICKINSON: I did not understand him to say that he has always bought it.

MR. SEVERANCE: Well, what have you ordinarily bought?

MR. DICKINSON: He says he bought from the Carnegie a good deal.

MR. SEVERANCE: He said when the operation of those mills was taken over by the Carnegie he bought from Carnegie.

MR. DICKINSON: You are asking him now as to before they were taken over?

By MR. SEVERANCE:

Q. Perhaps I did not understand you correctly. I understood you to say you bought from King, Gilbert & Warner and the Ohio. Those were taken over by the National?

A. Yes.

Q. And then you continued to buy from the National Steel Company?

A. We bought from the National, and they would ship their sheet bars from whichever plant they wanted to.

Q. Then after the operation of the National was taken over by the Carnegie, you bought from the Carnegie?

A. At the same time we secured part of our sheet bars by buying billets and breaking them down on a small mill of ours into sheet bars. Those were generally bought from the Ashland Steel Company, and once or twice I believe we bought from a little company in Kentucky that operated an open hearth plant and made billets; I forget the name of the concern. I think it was at Middlesboro, Kentucky.

Q. Did you buy any bars from the Republic Iron & Steel Company?

A. Yes, we bought bars from the Republic Iron & Steel Company.

Q. Did you buy any from Jones & Laughlin?

A. Not to my recollection, no.

Q. Were they in the market selling bars at that time?

A. I do not know whether we took it up with them or not, regarding prices; I do not recollect that we did. I think we did, but I think their prices were generally higher. I don't recollect buying any sheet bars from them.

Q. How about the Youngstown Sheet & Tube Company; were they in the market?

A. They were at times sellers of sheet bars, but their prices were never such that we could favor them with any orders.

Q. How did their prices compare with Carnegie's?

A. They were generally higher. The Republic's prices were generally higher too, practically.

Q. Does the American Rolling Mill Company sell bars?

A. Yes, at times they offered sheet bars and we bought some from them, I think.

Q. What is the difference between cut bars and other bars?

A. The difference between cut sheet bars and long bars is that the long sheet bars are rolled and then cut into lengths of about 30 feet. Cut sheet bars are sheet bars cut as specified, generally in lengths of 25, 27, 29, 30, 36 or 37 inches, somewhere up to three or four feet, in various inches that would be specified.

Q. Were these Ohio mills that you originally bought from, or the Carnegie mills, whichever ones they supplied you from, equipped to furnish cut bars?

A. They could furnish either cut or long bars. All our purchases from them were cut bars, as we preferred them. In our purchases from the Republic Iron & Steel Company we had to take long bars, because they were not equipped to make cut bars. The American Rolling Mill Company made cut bars.

Q. What other makers of sheet bars have been in the market in the territory in which the Andrews Steel Company sold its product, since the establishment of the company?

A. The Lackawanna Steel Company, the Cambria, the Carnegie Steel Company——

Q. You have mentioned them already, but go on and give the whole list.

A. The Youngstown Sheet & Tube Company and the Republic Iron & Steel Company. The American Rolling Mill Company has sold some sheet bars, however.

Q. What about the La Belle Iron Works? Do they sell sheet bars?

A. They have sold sheet bars, yes; they have gone to one of our customers to sell sheet bars; they have marketed sheet bars to one of our customers.

Q. Does the Inland Company sell sheet bars?

A. I have never heard of them selling sheet bars. They can if they want to, but I think they generally finish their product in their own finishing mills.

Q. How has the market in sheet bars been since the An-

drews Steel Company went into business, as to being controlled by price agreements among yourself and your competitors, or otherwise?

MR. DICKINSON: I object to so much of that question as refers to anything except any agreements that this witness may have gone into.

MR. SEVERANCE: That is what I am asking about.

THE WITNESS: We have sold our sheet bars at the best price we could get for them.

By MR. SEVERANCE:

Q. You have acted independently?

A. We have acted independently.

Q. Without any agreements or understandings?

A. Without any agreements or understandings.

MR. DICKINSON: You are referring to the Andrews Steel Company?

MR. SEVERANCE: The Andrews Steel Company; they are the only ones that make sheet bars.

MR. DICKINSON: I know, but he has already testified to that.

THE WITNESS: I think I testified as to the billet end.

MR. SEVERANCE: He testified to billets, but Mr. Halstead calls my attention to the fact that I omitted to ask him about sheet bars.

By MR. SEVERANCE:

Q. Mr. Andrews, did you attend any of the meetings that were held subsequent to the Gary dinners, so-called—any meetings of persons engaged in the various lines of manufacture that you have testified to that you were in?

A. I don't know whether those meetings were held subsequent to the Gary dinners or not, because I do not know when the Gary dinners were held. I have attended meetings held by the sheet people.

Q. When was that?

A. I could not give the exact date. I think it was in 1908; in the fall of 1908.

Q. How many of those meetings did you attend?

A. I would not want to exactly state that; I attended a

number of the meetings where sheet people have been present. Sometimes they have had meetings for the discussion of wage scales and things like that. They generally had two or three meetings. The majority—not the majority, but at one time the majority of the mills—were union mills, and the Amalgamated Association, the Union, used to present their demands to the sheet manufacturers, and they would have a meeting to discuss them pro and con. They would probably have sometimes two to three meetings. I think that I have attended, however, of the sheet manufacturers, about three or four meetings—the meetings that you have reference to.

Q. Do you remember any meetings that were called by Mr. Campbell of the Youngstown Sheet & Tube Company?

A. Yes, sir.

Q. Did you attend any of those meetings?

A. Yes, sir.

Q. What was done at those meetings?

A. The meetings that I attended were, I think, in the fall of 1908. Mr. Campbell, I know, called one or two of them. The majority of the manufacturers—I won't say the majority, but some of the manufacturers of sheet and tin plate attended those meetings and they discussed trade conditions, prices and so forth.

Q. During those meetings, or in connection with those meetings that you attended, were there any agreements or understandings reached between the parties as to the prices they would charge at any time for their products that they had to sell?

A. No.

Q. Did you make any agreement or promise as to the price at which you would sell your products?

A. No.

Q. Did you hear any of the other parties entering into any understandings or agreements as to the prices at which they should sell their products?

A. I did not.

Q. You did not hear anything of that kind?

A. No.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

By MR. DICKINSON :

Q. You say, as I understand you, that you attended three or four meetings?

A. Yes.

Q. You cannot give the dates?

A. I cannot.

Q. Were all of these three or four meetings called by Mr. Campbell? Can you state that positively, or do you know?

A. I know that Mr. Campbell called one or two of the meetings. I have no recollection of anyone else calling any of those meetings.

Q. So that, so far as you know, there are only one or two that you recollect that Mr. Campbell called, that you attended?

A. I attended some three or four meetings. I know, definitely, that Mr. Campbell called at least two or three of them.

Q. That is what I say. That is all you recollect?

A. Yes.

Q. And you do not know when they took place?

A. The ones I attended were during 1908; the fall of 1908.

Q. But you cannot give the months nor the dates?

A. No, sir; I could not give the exact months. I think it was during the winter months of 1908. It may have been in the spring of 1909. It may have been in January, 1909, one or two of them.

Q. You cannot locate the particular months you attended any particular meetings, then?

A. No, I cannot.

Q. What did the Newport Rolling Mill Company buy in the market outside of what it bought from the Andrews Steel Company?

A. Since 1908?

Q. No; take the whole period of twelve years; what did it buy on the market for manufacturing purposes?

A. It bought pig iron, sheet bars, billets, sal ammoniac——

Q. I meant steel products.

A. Oh. Pig iron, billets, sheet bars, and it would buy a few bands.

Q. The principal purchase, then, was sheet bars?

A. Sheet bars was the largest commodity purchased.

Q. Take twelve years ago—that would be 1901—and what was the tonnage that that company bought in sheet bars?

A. I could not give the exact tonnage at that time that they bought. If they were running full at that time they would consume about 25,000 tons of sheet bars.

Q. From whom did they buy that?

A. Their main source of supply was the Carnegie Steel Company or the National Steel Company.

Q. What percentage did you buy in 1901 from the subsidiaries of the United States Steel Corporation?

A. I could not tell the exact percentage for any one year without looking it up; but to my knowledge I would say it would be about 90 per cent. Maybe during that one year we may have bought all of our sheet bars from the Carnegie Steel Company.

Q. Take from 1901 down to the time you began to buy from the Andrews Steel Company: Did you continue buying about the same percentage from the Carnegie Steel Company?

A. Yes.

Q. What kind of a contract did you have with the Carnegie Company? Was it for a long period or for a short period, or did it run for several years?

A. We would have a contract sometimes for one year and sometimes, I think, for two years or three years.

Q. Take from 1901 down to 1908: That was when you began to buy from the Andrews Steel Company; how many contracts during that time did you have with the Carnegie Company?

A. I could not tell you.

Q. But you had contracts with them during that time running sometimes for a year and sometimes for as much as three years?

A. Practically continuously. As soon as one contract would run out, we would renew it or make another contract.

Near the completion of our steel plant we allowed our contract to run out. Our steel plant was delayed in completion and we went back to the Carnegie Steel Company and made a purchase, I think, of a fixed tonnage of sheet bars to tide us over.

Q. Then as soon as one contract with them would run out you——

A. We would generally renew it, or make a new one.

Q. You would make a new one with the Carnegie Company?

A. Maybe there would be some objections to some clauses of the old contract, or something of that kind, or we would try to get better terms, or something.

Q. Did not those contracts, or some of them, call for you to take a minimum amount?

A. A minimum amount and a maximum amount.

Q. And how near did that minimum amount reach your contemplated requirements?

A. I would say that we would generally take nearer the maximum amount on those tonnages than the minimum.

Q. That was about 90 per cent., during that period?

A. Yes; about 90 per cent.

Q. After you began to buy from the Andrews Steel Company, I believe you said, you got about 50 per cent. from them?

MR. SEVERANCE: No; all.

THE WITNESS: All of our——

By MR. DICKINSON:

Q. I will get it right. I have a memorandum of it here. You said you got about 40 to 45 per cent.——

A. No; that is the amount of pig iron we purchased in the Birmingham district.

Q. That is pig iron, yes. Well, I will not go back to that. Tell me, then, after you began to buy from the Andrews Steel Company what proportion of your requirements you got on the outside in sheet bars?

A. After the Andrews Steel Company started to make sheet bars we purchased no sheet bars on the outside, with

the exception of a small tonnage that we purchased last spring, because the mills of the Andrews Steel Company were shut down and not able to operate owing to the effects of the flood.

Q. So with that exception, then, you got, from 1901 to 1908, about 90 per cent. of your requirements from the Carnegie, and after that practically all your requirements, with this one exception, from the Andrews Steel Company?

A. Yes.

MR. SEVERANCE: One thing I did not ask him. Would you mind if I interpolate it here?

MR. DICKINSON: No; that is all right.

By MR. SEVERANCE:

Q. Are the Andrews Steel Company and Newport Rolling Mill Company controlled by the same stockholders?

A. The largest stockholders in the Newport Rolling Mill Company are also the largest stockholders in the Andrews Steel Company.

By MR. DICKINSON:

Q. Now, who are the largest stockholders in those two companies?

A. Mr. A. L. Andrews, and his wife; I think she is a stockholder in the Newport Rolling Mill Company; Joseph G. Andrews; A. K. Andrews; my brother, W. N. Andrews, and myself.

Q. Are there any large stockholders outside of your family?

A. In the Newport Rolling Mill Company, no.

Q. Well, how in the other?

A. My uncle has two daughters who are stockholders in the Andrews Steel Company.

Q. Well, outside of your family connections?

A. No.

Q. It is pretty much a family affair, then?

A. Yes.

MR. SEVERANCE: Your family control both companies, then, do they?

THE WITNESS: Yes; but some of the stockholders in the

Andrews Steel Company are not stockholders in the Newport Rolling Mill Company.

MR. SEVERANCE: But all the stockholders in the Newport Rolling Mill Company are stockholders in the Andrews Steel Company?

THE WITNESS: Yes.

MR. SEVERANCE: And control it?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Now, what was the output in tonnage of the Newport Rolling Mill Company for the year 1901 of finished product?

A. We have a record of what we produce each year, but I could not say offhand. I would say our capacity at that time was about 25,000 tons.

Q. What was your output? You have given us your capacity.

A. I could not tell you what our output each year was, because at times we would run fuller than at other times.

Q. But what you have given is the theoretical capacity, is it not?

A. Well, our output was about—we could produce at that time 25,000 tons, and probably did produce 25,000 tons.

Q. Now, take the year 1902?

A. In 1901 we had—I will not say 1901, but about that time, there was a limit on output on sheet mills, put on by the Amalgamated Association of Iron and Sheet and Tin Plate Workers—the Union. Shortly after that they took the limit off, and the mills commenced to increase their output; they got better furnaces, better equipment, larger and stronger mills, and since then the output has practically steadily increased each year.

Q. Just give us as nearly as you can—you have given it for 1901; now, give it for 1902, and on down to the present time.

A. That would be more or less of a guess.

Q. Yes, but you can give us your best estimate.

A. I would say it steadily increased, so that from an out-

put of 25,000 tons on ten sheet mills, it has grown to 50,000 tons on ten sheet mills.

Q. What product are you speaking of there?

A. Sheet mill products; sheets.

Q. Was that your capacity in 1912?

A. Our capacity to-day is about 50,000 tons.

Q. Take the Andrews Steel Company; you say they began manufacturing in 1908?

A. 1908.

Q. What was the output there in tons in steel bars, billets, slabs, ingots and blooms in that year, 1908?

A. In that year I could not tell you, offhand.

Q. Well, what is the nearest estimate you can make?

A. Approximately, I should say, we operated probably—commenced operations about April 8th, with one furnace, and I should say we produced about 50,000 tons that year.

Q. Now, in 1909?

A. In 1909 our tonnage increased.

Q. To about what?

A. I could not tell you offhand. I can say, approximately, 65,000 or 70,000 tons.

Q. Now, give us 1910, 1911 and 1912.

A. In some years it went back a little; one or two years, in times of depression, and it was not always a steady increase, but the capacity and the output of the plant has increased since the start. As you can see, we started with three furnaces, with a nominal capacity of about 75,000 tons.

Q. What has been the maximum output in any year—the highest year?

A. I should say about 90,000 tons has been our maximum output in any one year.

Q. What year was that?

A. 1911 or 1912. We completed this year two additional furnaces, increasing our output a little over 50 per cent.

MR. SEVERANCE: I think that is all, Mr. Andrews.

MR. DICKINSON: That is all.

ALBERT GRANT BELMER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows :

DIRECT EXAMINATION

By MR. LINDABURY :

Q. Where do you live, Mr. Belmer?

A. Cincinnati.

Q. What is your business?

A. More especially jobbing of wire and wire products.

Q. Have you a corporation?

A. Yes, sir.

Q. What is its name?

A. The H. Belmer Company.

Q. What relation do you sustain to it?

A. Vice-president.

Q. How long have you been vice-president of that corporation?

A. I think the concern was incorporated about four or five years ago.

Q. Was it in existence before that in some other form?

A. Yes, sir.

Q. What?

A. As a firm.

Q. For how long a time?

A. There was an H. Belmer & Company established immediately after the war; a couple of years.

Q. The War of the Revolution?

A. No.

Q. Or the Civil War?

A. The Civil War. I did not mean the Spanish War.

Q. You meant the Civil War?

A. Yes.

Q. Your memory does not go back to that time?

A. Not quite.

Q. How old are you?

A. Forty-five.

Q. Were you a member of the old firm—of the firm before the corporation was formed?

A. No, sir.

Q. Were you connected in any way with the business before that?

A. Yes.

Q. As what?

A. I was sort of a general manager and all-round worker.

Q. For how many years had you had the general management, whether you had the title or not?

A. Along about 1890 or 1891; somewhere in there.

Q. From that time on, down until the corporation was formed?

A. Yes.

Q. Have you a general manager now?

A. Yes.

Q. I mean, by name?

A. We have no general manager by name. It is a family affair, the corporation, and I am the son of Mr. H. Belmer, who is the president.

Q. And does the management of the company fall to your lot?

A. Very greatly.

Q. You are younger than your father?

A. A little bit.

Q. What does your company do?

A. We manufacture some wire goods, but our main business is the jobbing of wire and wire products.

Q. Do you handle wire nails?

A. Yes, sir.

Q. Fencing?

A. Yes, sir.

Q. Barb wire?

A. Yes, sir.

Q. And some other wire?

A. Yes, sir.

Q. I understood that the jobbing end of your business is the larger part?

A. Yes, sir.

Q. How much wire do you use a year, in tonnage?

A. Between 5,000 and 6,000 tons.

Q. Do you buy any from the American Steel & Wire Company?

A. Some.

Q. Do you or not buy on a competitive basis?

A. Yes.

Q. What percentage of your purchases is made from the Steel & Wire Company?

A. Well, I cannot give it definitely on most of the years, but my recollection is that the other percentages outside of the year 1912 were less than they were in 1912, and in that year they ran a little less than 12 per cent.

Q. You know just what they did run in that year?

A. I know what they ran in that year, yes.

Q. And your recollection is that it was rather less than more?

A. Yes.

Q. For how many years back can you remember, ten years?

A. No, I should judge about five or six years.

Q. That is, your recollection, you mean, goes back that far?

A. Yes. I will not say my recollection, but for those years I know about what our tonnage was. Previously to that our total tonnage was a little lighter, because we have been growing in the meantime to some extent.

Q. As general manager did you have anything to do with purchases?

A. I bought nearly everything.

Q. How long have you bought nearly everything? Never mind about the formation of the corporation, but covering the period of your partnership as well.

A. Well, our company was in a little peculiar position. Up to the time that the American Steel & Wire Company was formed our company was really a part of the Cincinnati Barbed Wire Fence Company, and we drew our supplies from them. After they sold out then we went onto the general market and bought.

Q. You observe I am talking about the period wholly since

that time, wholly since the American Steel & Wire Company was formed; that is, the last ten years?

A. Yes.

Q. I think you have already answered that during the last five or six years your purchases ran about 11 to 12 per cent.?

A. Yes.

Q. Can you give us any idea what they were during four or five years before that?

A. I judge they were less, except possibly the first month or two when we were just getting our bearings after the change, after the Barbed Wire Company sold out and Belmer & Company got into the harness. I don't recollect where we bought stuff then.

Q. Have you bought from time to time for immediate use or on contracts with time delivery?

A. Sometimes we have bought as we needed it, from month to month, without any special contract. At other times, when we thought the market had got about right from the buyers' standpoint, that the price had got down about as low as it was going to be, then we would try to make contracts.

Q. What proportion of your requirements has been purchased on time contracts?

A. Oh, I would judge about 75 per cent.

Q. Is that true of the whole period of ten years?

A. Yes.

Q. Was there any change in the method of doing business?

A. Well, excuse me. I want to change that. I believe it was more than that; probably 80 to 85 per cent., because we always aimed to have some little stuff under contract.

Q. Was there any particular change in the method of buying when the Corporation was formed from that which obtained when it was a partnership? Has the business gone on about as it was before in those respects?

A. Well, when the American Steel & Wire Company—

Q. No, your concern; when was your concern formed into a corporation?

A. I don't remember, but it is about four or five years ago, five or six years.

Q. That is what I am talking about, whether there was any change in your method of buying after your corporation was formed, from that which obtained when it was a partnership?

A. No, sir.

Q. Do you receive quotations when you are ready to make purchases or contracts, ordinarily?

A. Yes.

Q. From how many different concerns? I am not asking for the names just now, but the number?

A. Probably six or seven, somewhere in there.

Q. Can you give me the names of them, or some of them, the leading ones?

A. Yes.

Q. Will you do so, please.

A. The American Steel & Wire Company, the Youngstown Sheet & Tube Company, the Pittsburgh Steel Company, the Kelly Nail & Iron Company, the Belfont Iron Works, Norton Iron Works, and probably a few more smaller concerns.

Q. That will do. Were you visited by the salesmen of those concerns from time to time?

A. Yes.

Q. Did you get quotations from them also?

A. Yes.

Q. Did the quotations that you received from the salesmen and the quotations that you received by request ordinarily agree? That is, were they ordinarily uniform, or ordinarily variant?

A. Ordinarily variant.

Q. Both those that you got in response to invitation and those that you got from the different salesmen?

A. Yes.

Q. Were there ever two of them alike?

A. Well, it is pretty hard to tell in all these years; there might have been a price or two that would be about the same.

Q. Assuming that there were times when two or more agreed, did they agree often or was it infrequent?

A. Very infrequently, rather.

Q. Has there been active competition in the sale of these

wire products by the different manufacturers with whom you have dealt, or whose bids you have solicited during the last ten years?

A. Yes.

Q. Is that true of the whole period?

A. Yes.

Q. And is it true of each of the articles that you deal in?

A. Yes.

Q. And in addition to inviting bids from the manufacturers and receiving offers from their salesmen, was it or was it not your practice to negotiate for a better price?

A. Yes.

Q. And with what success?

A. Usually I would get a better price.

Q. Do you always negotiate with one, or always with all, and, if not, on what principle do you make that selection?

A. After I had my prices in of course the fellows that were the highest I didn't pay much attention to. I would get down to the fellows that were pretty near the bottom, and I would go to them or have them come to me or write to them and say "Can't you do a little better?" and the man that I would get down the lowest, he would usually get the business.

Q. Now I take it from your statement that that was the American Steel & Wire Company in only about 11 or 12 per cent. of the cases?

A. It resulted in their getting about that percentage of the business.

Q. Of course it would depend upon quantity some?

A. Yes.

Q. Was there anyone who got the largest amount of your business, or was it pretty evenly distributed among the others?

A. Yes, there were one or two or three that the bulk of the business would be divided among.

Q. Who got the largest amount of your business?

A. I judge that the largest amount went to the Belfont Iron Works and the Kelly Nail & Iron Company, and one or two years I think the Pittsburgh Steel Company got a big slice of it, and another year I think the Youngstown Sheet & Tube Company; I am referring more especially to our spring

contracts, because that is where we make our heaviest contracts.

Q. Would you find the concern that was highest at one time generally highest at another time, or would they differ in that respect, one being high at one time and another at another time?

A. No, there was a good deal of variation. I have always made it a point in buying to distribute my business in such bulk, and have it so generally known that the best price took the business that every once in a while somebody would say "I am going to get that," or I judge that is what he said to himself, and first one would make a cut and then the next time the other fellow would possibly make a cut.

Q. So that there was rather a wide distribution in that way of your business, was there?

A. Yes.

Q. Have you at any time within the last ten years observed any indication of a combination between the wire manufacturers, either to fix or maintain prices?

MR. COLTON: I object, on the ground that it calls for a conclusion of the witness upon a state of facts which may or may not be in the mind of the witness, not disclosed to the court.

THE WITNESS: I do not know—I could not tell whether there was any agreement as to prices, but as far as the results in our business were concerned, we always succeeded in getting better prices than were made the first time; that is, we would get quotations, and then, when we would come to a show-down, the chances are we would usually get lower figures afterwards, as a result of dickering, or something like that.

By MR. LINDABURY:

Q. Did your dickering or your contact with the business, the getting of quotations, the offering of goods, anything connected with your particular trade at any time during the ten years, indicate to you that the manufacturers were in a combination of any kind?

MR. COLTON: I object, on the ground that it calls for a conclusion of the witness on a state of facts not disclosed to the court.

THE WITNESS: No, sir; I do not think so.

MR. LINDABURY: That is all.

CROSS EXAMINATION

By MR. COLTON:

Q. With whom have you contracts for this year, for wire products?

A. We have had some contracts with the Belfont Iron Works, the Kelly Nail & Iron Company, the Norton Iron Works—you mean all through this year?

Q. Yes; for the year 1913.

A. The American Steel & Wire Company, and some little stuff from the Indiana Steel & Wire Company—I do not know that that is essential, because they make a product that none of these other fellows make. It is a nail that none of the rest of them make that we buy from them.

Q. Those are the only contracts you have for the year 1913 for wire products?

A. I do not think of any others.

Q. What different articles are covered by your contract with the American Steel & Wire Company?

A. Smooth wire, barbed wire, nails, some fencing—I guess that is about all.

Q. What is the total tonnage that you have placed with the American Steel & Wire Company during the year 1913?

A. 500 tons, I think it was.

Q. When was that contract made with the American Steel & Wire Company?

A. I think that was made a month or two ago.

Q. Could you give the date more accurately than that.

A. No; I don't believe I can.

Q. Did the contract have a base price?

A. Yes, sir.

Q. What was the base price?

A. I don't know that I could tell you what the contract read. I know what we were to pay at Cincinnati for the stuff.

Q. It included freight?

A. Yes.

Q. And the quotations that you have familiarized yourself with include freight, usually?

A. Yes, sir.

Q. You are not familiar with the difference in the different markets that there would be if you took a quotation as Pittsburgh, as distinguished from quoting the products delivered?

A. I do not know about the other markets. I know about the Cincinnati market.

Q. You are only familiar with the delivered prices? Is that right?

A. In a general way I know what it nets back to Pittsburgh; that is, what it nets the mills at Pittsburgh. That is, in case it was a Pittsburgh price.

Q. Do you know what the manufacturers at Pittsburgh actually paid to the railroads during the last ten years in respect to any tonnage of wire under contracts that you had?

A. I know our price here would be \$1.70 on nails at Cincinnati. I know the freight is fifteen cents, or the tariff rate is fifteen cents; I would judge, then, it would net \$1.55 at Pittsburgh.

Q. You did not pay the freight?

A. No.

Q. You do not know what was paid, do you?

A. If we did pay the freight, we would simply take it off the bills.

Q. Did not the sellers frequently pay the freight?

A. I believe the American Steel & Wire Company nearly always prepays its freight. Some other concerns do not. That is my recollection.

Q. It varies, but the American Steel & Wire Company is one of the concerns that more usually pays the freight; is that right?

A. That is my recollection, yes.

Q. Is it not a fact that the American Steel & Wire Company practically always pays the freight?

A. I guess that is right.

Q. Do you know of any instance in which they did not pay the freight?

A. On direct shipments I do not believe they do. That is, I mean direct shipments to other points on our orders, outside of Cincinnati.

Q. What was the price that you paid at Cincinnati to the American Steel & Wire Company on the contract for 500 tons that you have testified about?

A. \$1.70 Cincinnati.

Q. That contract was made about a month ago?

A. Within a month or two months ago. I did not think it would be necessary to look for anything like that, so I did not look it up.

Q. That is the base price on what?

A. Nails.

Q. The base price on nails?

A. Yes.

Q. Are all the other products figured by a system of extras from nails?

A. Yes; that is, with the exception of fence. Fence is usually sold on a discount basis.

Q. You had some fencing included in this contract, did you not?

A. No, sir.

Q. The contract included smooth wire?

A. Yes.

Q. And barbed wire?

A. Yes.

Q. And wire nails?

A. Yes.

Q. And anything else?

A. Well, some staples. I guess that was about all.

Q. I understand you to say that, by a system of extras, you figure everything from the base price of nails?

A. Yes, sir.

Q. That is a general practice in the industry?

A. Yes; it is trade usage. If they make the price on nails, you know what the price is on all the rest of them.

Q. The base price on nails, as given to you in this particular case, was delivered Cincinnati? Or were you given the base price on nails, Pittsburgh?

A. I think that contract was worded "\$1.65 Pittsburgh" and whether it said it or whether it was understood, the price was to be \$1.70 Cincinnati; but for direct shipments I think it was \$1.65 Pittsburgh; that is, direct shipments to our customers outside of Cincinnati.

Q. Who paid the freight in the case where it was \$1.65 Pittsburgh?

A. We have not shipped anything direct on that contract. I don't know what they would do in that case.

Q. Does the contract provide for who should pay the freight at \$1.65 Pittsburgh?

A. Nothing is said about that, no, sir.

Q. Do you mean to say that you had on that contract only a difference of five cents between Pittsburgh and Cincinnati?

A. Yes.

Q. Is that five cents a hundred?

A. Yes, sir.

Q. And you say the usual rate is fifteen cents?

A. The published tariff is fifteen cents; yes, sir.

Q. You said you got some fencing from the American Steel & Wire Company in 1913? I understood you to say so.

A. There was some in the spring, yes, sir.

Q. How much tonnage was there in that contract?

A. I believe there was only about five or six cars. We do not sell much fencing.

Q. Fencing?

A. Woven fencing, yes, sir.

Q. Is that the only contract you had with the American Steel & Wire Company for 1913?

A. Well, most of that stuff was bought—maybe I am getting it wrong—my recollection is now most of that stuff was bought in 1912. Now, we got some of it in 1912, and some of it came over into 1913, but what that proportion was I do not know.

Q. Are you now speaking of fencing?

A. Yes, sir; woven fencing.

Q. Going back to smooth wire, barbed wire, nails and

staples, did you have any other contracts than the one contract about which you have testified, with the American Steel & Wire Company, for the year 1913?

A. I think in the spring of 1913 we had some stuff come in that was contracted for the previous fall.

Q. And how much tonnage was there in that contract?

A. I do not remember that any more; probably three or four hundred tons; something like that.

Q. Do you know what the base price, Cincinnati, was on that?

A. No, sir.

Q. For Cincinnati delivery? Was it for Cincinnati delivery?

A. We were at liberty to ship it any place. When we make a contract we can ship those goods any place we have a mind to. Some we ship to Cincinnati, and others we take direct, as we have the privilege of doing.

Q. Do you recall what the price delivered at Cincinnati was on that?

A. No, sir.

Q. Do you recall the base price on that contract at Pittsburgh?

A. No, sir.

Q. Now, referring to this 500 ton contract that you have just testified about, for the year 1913, with what different concerns did you take up the question of selling to you the tonnage involved in that contract?

A. I do not know at that particular time that I took up the question with other mills.

Q. Now, take the contract for 1912 that you placed with the American Steel & Wire Company. With what different concerns did you take up the tonnage involved in that contract?

A. My recollection is that about the same time—within a month or so—we bought stuff from the Kelly Nail & Iron Company and the Belfont Iron Works; probably some stuff from Norton Iron Works.

Q. That is all you recollect in regard to the extent to

which you took up purchases with other companies in regard to that contract?

A. Yes, sir.

Q. Took up prices, I should have said, in regard to that contract.

A. Well, I may have written some Pittsburgh people, but my recollection is nothing resulted.

Q. Then you have no recollection of having directly taken up with any concern the purchase of the steel involved in that contract that you placed with the American Steel & Wire Company in 1912; is that right?

A. Except those names—those people that I gave you.

Q. That was a month or so before, was it not?

A. Along in that time; along, I think it was, in November and December. At that time we generally make our spring contracts, and then we write around a general letter to these various mills, and probably sometimes the bids are not closed for a month. We keep worrying them and aim to have them reduce the price, and when we think it is about right, then we buy; buy as much as they will let us.

Q. How long before you closed that contract with the American Steel & Wire Company did you take it up with the American Steel & Wire Company?

A. I do not know.

Q. Do you know whether you closed it within a week after you communicated with the American Steel & Wire Company, or not?

A. My recollection is that they came in to us, and said this would be a pretty good time to buy now, and I think I said, "I don't believe the price is right," or something like that, and it was put off and put off; I don't know just what the length of time was; it generally runs two or three weeks; maybe a month sometimes, before I do buy. If I do not think the market is quite right, I do not buy.

Q. Is that as near as you can state about taking prices on your tonnage?

A. Yes, sir.

Q. On that particular tonnage?

A. Yes, sir.

Q. You have no recollection whatever about what was the price quoted to you by the American Steel & Wire Company at that time?

A. Not now, no, sir.

Q. You have no recollection as to what the price quoted to you by any other company at that time was?

A. No, sir.

Q. How many contracts did you place during the year 1913 with the Norton Iron Company?

A. I think we had a spring contract with them, but since then I do not believe we have had any contracts. I think we have bought once or twice from them, just on open quotation, a few cars at a time.

Q. In the spring of 1913?

A. Yes, sir.

Q. You made a contract in the spring of 1913 with the Norton Iron Company for what products?

A. I do not say we made a contract in the spring; I think we had a contract with them, and drew some stuff on it along in the spring, but I do not say that we made the contract in the spring, or just when we did make it. I know that we were buying some stuff from them, and it was usually a small contract with them.

Q. You do not know whether you made any contract during the year 1913 with the Norton Iron Company?

A. I do not know that the contract was made in 1913, because the goods for our spring deliveries are usually bought in November and December, and we draw along through the spring. Sometimes we make some contracts later in the spring. I know we bought some stuff from the Norton Iron Works along in the spring; that is, we had deliveries at that time; whether we bought it at that time or not, I am not sure.

Q. Whether that contract was made in the spring, or whether it was made in the preceding November or December, what was the tonnage called for in that contract?

A. Well, I can give you that; probably a couple of hundred tons.

Q. What were the products covered by that contract?

A. The same as these other products, except woven fence; they do not make that.

Q. That is, it included smooth wire, barbed wire, wire nails, and staples?

A. Yes, sir.

Q. What was the base price Pittsburgh on that contract?

A. They are at Iron-ton.

Q. What was their base price on the contract, wherever they may be located?

A. I told you I could not tell you the price; I said I could not remember any of those 1913 delivery contracts, the prices of them.

Q. With what different companies did you take up the question of supplying you with that particular 200 tons of steel, other than the Norton Iron Company?

A. I do not know that we took it up with anybody else, that particular 200 tons. If you will let me explain a little—we usually place the larger tonnage in November or December for delivery during the spring months, and then possibly later we might feel out the market again to see whether we are right, and we write to somebody else again, and my recollection is that usually Norton was used as a kind of information getter, because they have a reputation at times of making some pretty low prices, and when their price is low, we think that is pretty near the bottom of the market, therefore we rather write them to get information, and when we feel we need a little more stuff we might give them a contract for anywhere from one to two or three hundred tons, and sometimes more; all that they would give us at times, when we thought the price was low.

Q. In that class of instances you simply get quotations from the Norton Iron Company as an index to the lowest market price?

A. No, I do not say we always did that.

Q. But in that class of instances, I am not speaking of your entire contracts.

A. No, we might write other people at the same time. We might write any of the other ones that we did not have contracts with; it may be that just at that particular time we did not have a contract with Norton, or it might be that we

did not have a contract with Kelly, and then we would write to people—of course there would be no use of writing to people with whom we had contracts already, because they would say, “Your contract is the best we have,” but we would write to some of the other mills with whom we did not have contracts, to make the price, and then we could tell whether our present contracts were good, or were low prices, and in case we found somebody else was making a little better price, some of these people that we wrote to, it is possible we would write to those people with whom we had contracts and say, “We are offered better figures, and we would like to have you reduce your price.”

Q. Returning to this Norton incident, the best recollection you have is that you wrote to that company only at that time?

A. You are making a good deal of or emphasizing this Norton business a good deal; it was simply probably an instance that came along where we wanted a couple of hundred tons more, and we might just as easily have written to somebody else to get a price, and if we thought the price was low we would write to them, if we could use a little more tonnage; we would buy all we could in the spring, in case the price advanced, we have a bigger tonnage, in case of an advance in the spring, we could sell a good deal more than when there is not, and in that way we aim to keep a whole lot of tonnage under contract.

Q. You did not answer the question as to having any recollection of having written any other company than Norton in regard to this 200 tons that you purchased from them?

A. No; I could not say positively as to that.

Q. Now you say you take up your purchases primarily in the spring for your supplies?

A. No, generally in the fall, in November or December; and those goods, what we call our spring contracts, are delivered along after the first of the year. Some of them would run quite a way into the summer.

Q. In November and December you make something of a calculation of what your tonnage is going to be, your tonnage that you will require for the next year, and attempt to buy

up, on one or more contracts, your entire tonnage for the ensuing year as near as you can calculate it?

A. No; a jobber cannot buy ordinarily wire or wire nails except on 60 day contracts. They make the contracts run 60 days, but that is merely a form, because those contracts will usually run until they are taken; sometimes they run four or six months. It just depends on how badly the mills want business. If they want it badly they will let the contracts run along, and if they have plenty of business sometimes they will cut them off in a shorter time than four or six months.

Q. The question I am now asking you is whether in November or December you do, whether you take a contract running 60 days, and that is spread out over a longer time, or not, whether you do at that time buy up your supplies for a period lasting about a year from that date?

A. No, we cannot buy for a year from that date; only on sixty days.

Q. For what time do you buy, then?

MR. LINDABURY: He has answered that question several times, Mr. Colton. This is taking up an awful lot of time on cross examination.

MR. COLTON: I will take the amount of time I think it requires.

MR. LINDABURY: I think I will have to see if there is no power in the court to limit the cross examination as well as the taking of testimony. To have witness after witness cross examined twice as long as on the direct is very unusual, and should be stopped.

(The question was repeated by the stenographer as follows:)

“Q. For what time do you buy, then?”

THE WITNESS: Our contracts usually read about 60 days, but they are frequently extended. Usually nothing is said about it. They usually let it go on until you get the goods.

By MR. COLTON:

Q. Now, what proportion of your requirements in wire contracts are included within the contracts made in the fall, your requirements for the following year, you understand?

A. You mean what proportion we sell in the spring? You

mean, in the first half, as against what we sell in the second half?

Q. No. What proportion of your contemplated requirements for the succeeding year are covered by the contracts which you would make in the fall of a given year?

A. I say, I would judge it would be about half. Our object is to buy as much when the price is low as will carry us through the spring months, pretty close into the summer.

Q. Is there any other period of time in which you purchase for the next half of the year, or the remaining portion of the year, a large tonnage to cover requirements that you have not met up to that time?

A. Not as a general proposition; it depends a good deal on market conditions. If the prices are low we aim to keep covered pretty deeply; if prices are up on an ordinary basis, or high, we kind of buy from hand to mouth.

Q. What different contracts did you have with the Kelly Nail & Iron Company in 1913?

A. I think we had one with them.

Q. What products did that cover?

A. The same as the others, with the exception of wire fence.

Q. What tonnage?

A. I think that contract was a thousand tons.

Q. What date was it placed?

A. In November or December.

Q. In November or December of 1912?

A. Yes.

Q. You cannot give the base price, or can you give the base price?

A. No, sir; I cannot.

Q. With what other companies did you take up that particular thousand ton purchase?

A. The same inquiry was sent out to probably those four or five or six different people that I have mentioned before.

Q. Do you recollect with reference to that purchase of a thousand tons that you did as a matter of fact send out inquiries stating that you intended to purchase a thousand tons of the respective products, to those several companies?

A. No.

Q. Asking for prices?

A. No, the way we would do is this: we would probably ask for prices, send out a letter to all of them asking for prices on say anywhere from 1,500 tons to 2,500 tons; the same letter would go to all these people, and then in placing the business we would usually find that no one of the mills would want to take the whole thing, and we would place maybe a thousand tons here and a thousand five hundred tons or a thousand tons with somebody else, and then maybe we would give one or two other little contracts for about a hundred tons or two or three hundred tons. What we would ask for as to total tonnage would not be placed with one single company, usually, because if one company was shut down we would not be able to get any stuff. Therefore we would split it up a little, and they all knew that.

Q. You tell me what you probably would do, but I am asking whether you have any recollection of what you did with respect to this thousand tons purchase that you made of the Kelly Nail & Iron Company.

A. My recollection is that we sent out these circular letters asking for a price on tonnage of probably 1,500 to 2,500 tons. I do not even know what those figures are, absolutely; and then the tonnage was split up among two or three different companies, probably. One of them was Kelly.

Q. Do you have any recollection as to the other companies among whom you split up that tonnage?

A. I know the Belfont Iron Company got some of it.

Q. Any other company?

A. Well, we bought some stuff from the American Steel & Wire Company at that time.

Q. Do you have any recollection as to the respective prices that each of those companies caused you to pay for the tonnages that you took from them?

A. Nothing definite, no, sir.

Q. Do you have any recollection as to what were the different quotations from them?

A. No, sir.

Q. Can you give a single instance upon any contract, from the year 1901 up to January 1, 1913, where you placed or offered a certain quantity of steel to different companies and they quoted you different prices; can you now give the different prices that they quoted you, and who quoted them?

A. No, sir.

Q. Do you have any more distinct recollection in respect to any year previous to 1913 than you have in reference to the manner in which you took up contracts with different manufacturers in the year 1913?

A. No, sir.

Q. Can you give the companies that you did solicit bids from in the year 1901?

A. No, sir.

Q. In the year 1902?

A. Except that we probably asked most of these companies for prices, just as we have been describing.

Q. What do you remember about the year 1902 as to what companies you solicited bids from in respect to your various purchases?

A. I can not definitely say that I asked this company and that company and some other company, but I do know that we pursued practically the same method of asking for prices each year as we have described recently.

Q. For the year 1903 can you give me the different companies from which you actually solicited bids during that year?

A. I guess during the year we asked all of them for prices, at some time or other.

Q. Do you have any recollection as to any companies from whom you solicited bids during the year 1903? If so, name the particular company.

MR. LINDABURY: I object. The witness has already answered as to all of them, and all includes, of course, each one you are now asking him about.

MR. COLTON: He said "I guess."

(By request, the stenographer repeated the pending question as follows:)

“Q. Do you have any recollection as to any companies from whom you solicited bids during the year 1903? If so, name the particular company.”

THE WITNESS: I don't know just how to answer that. Some of these concerns were not making wire and wire nails right after the organization of the American Steel & Wire Company. They came in shortly after that. Just as soon as they were organized, whether it was in the year 1901, 1902 or 1903, I don't know—but immediately upon their organization, which was along in that neighborhood, I would commence writing them for prices.

By MR. COLTON:

Q. Writing to whom for prices?

A. These various mills that we have been speaking about. For instance, this Youngstown Sheet & Tube Company. They did not commence to make nails until—I don't know—I believe five or six years ago; something like that. The Pittsburgh Steel Company was organized several years, I think it was probably two or three years, after the American Steel & Wire Company was organized; and the Ironton crowd—I had better specify, I guess—the Kelly Nail & Iron Company, the Belfont Iron Company and the Norton Iron Works all commenced to make wire nails within a couple of years after the time of the organization of the American Steel & Wire Company. Just as soon as those various companies would get started, we would include them in the list as we would write at various times during the year asking for prices.

Q. Would you make the same answer for 1904?

A. Yes.

Q. And for 1905?

A. Yes.

Q. And for 1906?

A. Well, all the years succeeding.

MR. COLTON: That is all.

MR. LINDABURY: That is all.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

FRANKLIN OSCAR SCHOEDINGER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live, Mr. Schoedinger?

A. In Columbus, Ohio.

Q. What is your business?

A. Manufacturing sheet metal building material, and jobbing tin plates and metals.

Q. Have you a corporation?

A. No, sir.

Q. You are in business as an individual?

A. Individual; yes, sir.

Q. How long have you been in business?

A. Over 23 years.

Q. At Columbus?

A. Yes, sir.

Q. I take it you use steel sheets?

A. Yes, sir.

Q. In your business?

A. Yes, sir.

Q. What kind?

A. Black and galvanized steel sheets.

Q. About what quantity in tonnage per year?

A. About 3,000 tons per year.

Q. And you use, I think you also mentioned, tin plate?

A. Yes, sir.

Q. About how much tin plate?

A. About 5,000 boxes per year.

Q. Do you buy any of your sheets from the American Sheet & Tin plate Company?

A. Yes, sir.

Q. About what percentage?

A. About 25 per cent.

Q. Where have you obtained the rest?

A. From manufacturers known as independents, over the country.

Q. Can you name some of them?

A. The Portsmouth Steel Company, of Portsmouth, Ohio; the Stark Rolling Mill Company, of Canton, Ohio; the Canton Sheet Steel Company, of Canton, Ohio; the Phillips Sheet & Tin Plate Company, of Wierton, West Virginia.

Q. Did you mention the Portsmouth Steel Company?

A. Yes, sir.

Q. You buy from them?

A. Yes, sir.

Q. The American Rolling Mill Company?

A. Yes, sir; we buy from them; the American Rolling Mill Company, of Middletown, Ohio.

Q. Yes. Where do you buy your tin plate?

A. From the Phillips Sheet & Tin Plate Company, and the American Sheet & Tin Plate Company.

Q. How long have you confined your purchases to those two companies?

A. For about five years.

Q. Where did you buy before that time?

A. We bought of the N. & G. Taylor Company, of Philadelphia, and a manufacturer at Washington, Pennsylvania; Griffiths Tin Plate Company, of Washington, Pennsylvania.

Q. Did you buy any from the American Sheet & Tin Plate Company during that period?

A. Yes, sir.

Q. What percentage, about?

A. I should think about 50 per cent.

Q. That is, during that earlier period?

A. Yes, sir.

MR. DICKINSON: What years? Have you fixed that period yet, Mr. Lindabury?

MR. LINDABURY: Well, a period prior to five years ago.

By MR. LINDABURY:

Q. I think you said during the last five years, or thereabouts. Your purchases had been confined to the American Sheet & Tin Plate Company and Phillips?

A. Yes.

Q. Now, before that time you purchased about 50 per cent. of your tin plate from the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. How has your trade been divided between the Phillips and the American Sheet & Tin Plate during the last five years?

A. I should think about 50 per cent. with each one.

Q. Have you or not made your purchases on a competitive basis?

A. Yes.

Q. How large is your business in yearly turnover?

A. About half a million dollars per year.

Q. Do you make your purchases from time to time for immediate requirements, or do you purchase generally on contracts for future delivery?

A. Usually on contracts for future delivery.

MR. DICKINSON: Does that apply to tin? Are you asking about tin now, or sheet and tin both?

MR. LINDABURY: Well, I meant both, but I will find out whether he understood it.

By MR. LINDABURY:

Q. Does that answer apply to both sheets and tin plate?

A. Yes, sir.

Q. Do you purchase them both on about the same basis?

A. Yes, sir.

Q. And about what percentage—you said over half—could you give anything nearer than that in a percentage way as to the amount that you have bought on contract?

A. On sheets we buy a larger percentage from the independent mills than we buy from the—

Q. (Interposing) That you have already told. That is not the question; the question is, what percentage of your sheets, I will say first, have you bought on contract basis for future delivery?

A. Practically all of them.

Q. And what percentage of your tin plate have you bought in that way? That is, on contracts for future delivery.

A. Practically all.

Q. Before purchasing, is it your practice to invite quotations from any manufacturers?

A. Yes, sir.

Q. Do you ordinarily buy your sheets and tin plates at the same time, under the same contract, or under separate contracts?

A. Under separate contracts.

Q. Then, take sheets first. From whom do you ordinarily ask quotations on sheets?

A. From the manufacturers named.

Q. Now, will you repeat those?

A. Yes, sir.

Q. As to sheets?

A. Yes, sir.

Q. Never mind; I think you need not. The record shows. Those you named a little while ago?

A. Yes, sir.

Q. And are you or not visited by the representatives of the manufacturers from time to time, who are soliciting trade?

A. Yes, sir.

Q. Do they make you quotations?

A. Yes, sir.

Q. Now, do the quotations that you receive from the manufacturers on solicitation ordinarily agree or disagree? That is, are they ordinarily uniform or variant?

A. Variant.

Q. How is it as to the quotations made to you voluntarily by their representatives? Are they also variant, ordinarily?

A. Yes, sir.

Q. And how long has that been the case?

A. It always has been the case.

Q. Well, for the last ten years?

A. Yes, sir.

Q. Now, as to tin plate purchases are the quotations that you received from manufacturers on invitation ordinarily uniform or variant?

A. More likely to be uniform in tin plate than variant, and more likely to be variant in sheets than tin plate.

Q. That is, there is more variation in sheets than in tin plate?

A. Yes.

Q. Now, how about the prices named to you by the representatives of the manufacturers on tin plate; did they ordinarily vary, or were they ordinarily uniform?

A. Sometimes they would vary, but on tin plate more likely to be uniform.

Q. From how many did you solicit quotations on tin plate ordinarily?

A. From two manufacturers in the last five years.

Q. So that your solicitations were confined to two?

A. Yes.

Q. Before that from how many did you solicit quotations?

A. From three manufacturers.

Q. And are they the three you named a while ago?

A. Yes.

Q. During the last five years, then, when you solicited quotations from only two manufacturers, the Phillips and the American Sheet & Tin Plate Company, were their quotations to you generally the same or were they generally different?

A. Generally different in the last five years.

Q. That is, in the majority of cases they disagreed?

A. Yes.

Q. How was it during the five years before that, when you obtained quotations from the American Sheet & Tin Plate Company and two others; two others, if I understood you correctly?

A. Yes.

Q. Were the quotations then as a rule the same or variant? That is, were they generally variant, or were they generally the same?

A. As a rule variant.

Q. Did you always buy on a selection of price from those quotations, or did you sometimes dicker after getting the quotations?

A. We sometimes dickered after getting the quotations.

Q. Did you dicker with all that quoted, or from a selected number?

A. From a selected number, because some manufacturers had a better reputation for making good goods than others.

Q. Were you ordinarily able to get a better price, as a result of dickering, than those quoted to you?

A. Generally we were able to receive a lower price.

Q. Was there, so far as you have seen during the last ten years, competition, and has there been competition in these products which you have purchased between manufacturers?

A. Yes.

Q. Has it been of an active character?

A. Very.

Q. Why do you say it has been very active? What has been the character of it that leads you to say it was very active?

A. Quotations are usually followed up by solicitations from the travelers for these various companies, and they make strong appeal to get orders.

Q. Do they ever change their price quotations?

A. Yes.

Q. Is that frequent or infrequent?

A. Frequent.

Q. Has that been so during the whole period of ten years that you spoke of?

A. Yes.

Q. A change for what purpose?

A. To secure business, to secure orders.

Q. Are there times when competition is keener than at other times?

A. Yes.

Q. What are they?

A. In what year, or seasons of the year?

Q. Yes, or conditions of trade?

A. Usually competition is more severe at this season of the year, in the months of December and January, than during some other months of the year.

Q. Owing to what?

A. Owing to a natural decline in the business at this sea-

son of the year; there is a smaller consumption going on at this season of the year.

Q. I did not mean to ask about seasons of the year, but rather the state of trade, as to whether or not that had anything to do with the keenness or activity of the competition.

A. Very materially.

Q. How about the boom times, is competition as strong as in dull times?

A. No, sir.

Q. I suppose that has always been the case?

A. That has always been the case.

Q. Now you spoke of a variation in these quotations that have been made to you; would you find one concern generally higher, or would a given concern be higher sometimes and lower at another?

A. Yes.

Q. What?

A. Sometimes a given concern would be higher and sometimes a given concern would be lower.

Q. And have your purchases been based upon the lower quotations?

A. Yes.

Q. You job a good deal, don't you?

A. Yes.

Q. Is there competition in your jobbing trade?

A. Yes.

Q. Keen?

A. Very keen.

Q. Is the margin of profit large or small?

A. Very small.

Q. Does that necessitate your buying as close as possible?

A. Yes.

Q. So that you are obliged to take the lowest quotation?

A. Absolutely.

Q. And you have done it?

A. Yes.

Q. And that explains your buying sometimes from one and sometimes from the other?

A. Yes.

Q. And the general distribution of your trade that you have spoken of?

A. Yes.

Q. And that has been the case during the whole ten years?

A. Yes.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You have stated that your business; that is, the turn-over, was about half a million dollars a year?

A. Yes.

Q. Are you speaking of the present time?

A. That has been our average in the last ten years.

Q. That includes your whole business?

A. Yes.

MR. LINDABURY: Would you mind if I ask him a question suggested to me by Mr. Reed?

By MR. LINDABURY:

Q. And your whole purchases in five years have been confined to the two companies you have named?

A. Yes.

Q. Although they have been confined to the two companies you named, have you been visited and solicited by representatives of other companies during that time?

A. Many others.

Q. And frequently?

A. Yes.

Q. And have they made prices?

A. Yes.

By MR. DICKINSON:

Q. This turn-over of half a million dollars a year, what percentage of that is represented by your sales in steel products?

A. About three-fourths of it.

Q. And what does the other fourth consist of, in a general way?

A. In manufactured products, such as steel ceilings, metal window frames and sash, eaves troughs, and conductor pipe.

Q. Do you manufacture at all?

A. Yes.

Q. What do you manufacture?

A. We manufacture metal ceilings, steel ceilings, metal window frames and sash, eaves troughs and conductor pipe.

Q. These steel sheets you buy, do you use them for manufacturing?

A. We use some of them for manufacturing, and some of them for jobbing purposes.

Q. Part you make up and part you sell?

A. Yes.

Q. The boxes of tin plate: what do you use them for? Do you resell them?

A. We resell that almost altogether.

Q. Take the year 1913: how much steel sheets have you bought, in tonnage, this year?

A. About 3,000 tons.

Q. And that is pretty nearly your average purchase for a year, is it not?

A. Yes, sir.

Q. How much of this was bought on contract?

A. All of it; practically all.

Q. How many contracts were covered by this 3,000 tons?

A. Probably six.

Q. State with whom they were made and the tonnage of each and the times they were made, as nearly as you can.

A. They were made with the Stark Rolling Mill Company, Canton, Ohio.

Q. One or more with that company?

A. Two of them with them.

Q. What tonnage was covered with those two?

A. About 1,000 tons.

Q. From where did you get the other 2,000 tons?

A. From the Canton Sheet Steel Company, Canton, Ohio.

Q. How much?

A. About 1,000 tons; also the American Sheet & Tin Plate Company?

Q. How much?

A. About 750 tons; and the Portsmouth Steel Company, about 250 tons.

Q. Now, as to tin plate: how much of that did you buy for the year 1913?

A. About 5,000 boxes.

Q. From whom did you get that?

A. We got that from the Phillips Sheet & Tin Plate Company, at Weirton.

Q. How much?

A. About half of that quantity.

Q. From whom did you get the other half?

A. From the American Sheet & Tin Plate Company.

Q. Take the year 1912: what tonnage of steel sheets did you purchase?

A. About the same quantity.

Q. About the same amount?

A. Yes.

Q. From whom did you get it?

A. We did not buy any from the Portsmouth Steel Company in 1912, but we did buy from the other three firms mentioned.

Q. How much did you get?

A. About 3,000 tons.

Q. I was going to ask you how much you got from the Canton Sheet Steel Company and how much from the American Sheet & Tin Plate Company.

A. About 1,000 tons from each firm.

Q. Where did you get the other thousand?

A. A thousand from the Stark Rolling Mill Company.

MR. LINDABURY: He mentioned that heretofore, Judge.

MR. DICKINSON: Oh, yes.

THE WITNESS: And a thousand from the Canton Sheet Steel Company.

By MR. DICKINSON:

Q. And a thousand from the American Sheet & Tin Plate Company?

A. Yes.

Q. Take the year 1911: what tonnage did you buy of sheet steel?

A. To the best of my recollection, about the same tonnage.

Q. From whom did you get it?

A. From the three firms just mentioned: the Stark Rolling Mill Company, of Canton; the Canton Sheet Steel Company, and the American Sheet & Tin Plate Company.

Q. How much did you get from the Stark?

A. 1,000 tons.

Q. From the Canton?

A. 1,000 tons.

Q. From the American Sheet & Tin Plate Company?

A. 1,000 tons.

Q. Take tin plate for 1911: from whom did you get that?

A. From the Phillips Sheet & Tin Plate Company, at Weirton, and from the American Sheet & Tin Plate Company.

Q. In what proportions?

A. About one-half to each.

Q. How much did you get altogether?

A. About 5,000 boxes.

Q. All this was on written contracts?

A. Practically all; yes, sir.

Q. Where are those contracts?

A. Where are they now?

Q. Yes.

A. The written contracts?

Q. Yes. These contracts for 1913—

A. They are in my office.

Q. I will ask you to produce those contracts. Where is your office?

A. Columbus, Ohio.

Q. You can either send them on here to counsel on the other side, and they can show them to us, or you can return with them if you wish; any way that is most convenient to yourself. You will do that, will you?

A. I will do it—at the end of each year we have a place where all these things are filed away, and I suppose they are there, unless the rats have gone in and gnawed them up.

Q. The rats are the only things that might have gotten away with them?

A. I think so.

Q. Have you had any special complaint of rats there recently?

A. Nothing special, no.

Q. So far as you know, then, you have them in your possession and will produce them?

A. Yes, sir.

Q. Take the year 1911: in regard to tin plate, how many contracts did you have that year with the Phillips Sheet & Tin Plate Company, and how many with the American?

A. Contracts are usually made for three months periods. Sometimes they are extended; so that it would be impossible to answer that.

Q. You had several with each, did you?

A. Several with each, yes.

Q. Can you give the times of the year at which you made any of those contracts with either one of those concerns?

A. No, sir; I could not, definitely.

Q. Could you give the tonnage under any one of those contracts?

A. No, sir; I could not. We usually made purchases in sheets of 500 tons.

Q. You are speaking, now, of a general impression?

A. Yes.

Q. I am asking you, now, what you have fixed in your memory that you know, that you can recall.

A. No, sir; I could not state that definitely.

Q. Take those contracts for the year 1911: do you carry in your mind any recollection, any specific recollection, at the time any of those purchases were taken up, with a view of buying, from whom you solicited on any of those particular purchases?

A. I do not understand the question.

(By request the stenographer repeated the question.)

Q. Do you understand that now?

A. The likelihood is that we bought—that all of these firms solicited us, or we should not have bought from them. Does that answer your question?

Q. Well, it may answer it. Of course, you are the one to answer and I am not the one to tell you how to answer.

A. Certainly.

Q. I simply want you to answer to the best of your ability.

A. Yes.

Q. You are just going, in that answer, upon a general idea or general recollection of the way you conducted your business?

A. Yes, sir.

Q. You do not recall, do you, the fact of whom you solicited on any particular transaction, and what the prices were under any particular contract of purchase in that year?

A. We always solicited sheets——

Q. (Interposing) I am speaking now of tin plate.

A. Oh, I beg pardon. Tin plate?

Q. Yes.

A. Sheets——

Q. (Interposing) No; tin plate is what I am calling your attention to.

A. Yes. We always solicited tin plate quotations from the two firms mentioned, namely, the Phillips Sheet & Tin Plate Company and the American Sheet & Tin Plate Company.

Q. Now, did you sometimes buy simply upon that solicitation and the prices they would make, and then the bargaining you would make growing out of the quotations given in that way?

A. Yes, sir.

Q. Do you know the number of contracts for any one year, or the proportion that you dealt in that way, as compared with where you solicited others than these?

A. Read that question, will you please?

(The pending question was read by the stenographer.)

By MR. DICKINSON:

Q. I think that is not a very clear question. Take the year 1911; do you carry in your mind any particular transaction that you now recall that you took bids on from any makers other than the Phillips Sheet & Tin Plate Company and the American Sheet & Tin Plate Company?

A. No, sir.

Q. Now, do you, as a matter of fact, state that on any of these tin plate purchases you did take bids in the year 1911 from anybody else except those two?

A. No, sir.

Q. Take the year 1912; would that be the same or not?

A. It would be the same.

Q. How about 1913?

A. It would be the same.

Q. Now, take the years during the period that you have bought, back of 1911, would they be the same too?

A. About five years—from 1913 back for a period of about five years, it would be the same on tin plate; yes, sir.

Q. Now, back of that, take the year 1901. Can you recall now anything definite about purchases that you made that year?

A. No, sir.

Q. Can you recall anything about the bids or the variation in bids, or who made them, so as to give any idea as to what they were, comparatively? Tin plate, I am speaking of.

A. We bought, prior to 1908, from the N. & G. Taylor Company, of Philadelphia, and the Griffiths Tin Plate Company, of Washington, Pennsylvania. This was prior to the time that the Phillips Tin Plate Company—prior to the time that we started to buy from the Phillips Tin Plate Company.

Q. Now, that is prior to five years ago you bought from Griffiths and from Taylor?

A. Yes.

Q. And also from the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. Did you buy from any others except those three, back for the period between 1901 and down to five years ago?

A. Not to my recollection.

Q. Not to your recollection?

A. No, sir.

Q. Do you know and can you say positively that during that time you can recall **anything** as to prices on bids made by any

other dealers, or as to those particular dealers, or what the variation was, if any, or how they compared with each other?

A. They must have been lower, or we should not have purchased of them. We purchased from the lowest bidders, as it were; from the firms that made the lowest quotations.

Q. Yes; but take any of those particular years—1901, 1902, or 1903—do you know that on all your purchases the bids varied in the year, say, 1902?

MR. LINDABURY: Judge, I do not know whether you meant to go outside of the direct examination, but my inquiry was limited to ten years.

MR. DICKINSON: Oh, I did not understand that. I am much obliged to you.

MR. LINDABURY: I did not ask about 1901 or 1902.

MR. DICKINSON: Well, take ten years ago. That would carry it back to 1903.

MR. LINDABURY: The end of 1903, yes.

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. Take 1903; have you any recollection at all of the bids that were made, or the relation that they bore to each other, at that time, on any of the purchases you made of tin plate during that year?

A. The quotations that we received at that time, the fact that we bought from these other concerns must indicate that they were the lowest, or made the lowest quotation.

Q. That is your reason, is it, then, for stating that?

A. Yes, sir.

Q. And it is not that you remember that there were variations, but from the fact of your buying; you think you bought from the lowest?

A. We always do. I always do, and, therefore, they must have been lower, or I would not have purchased from them.

Q. Well, I will not argue that with you, but that is your reason for stating that?

A. Yes; that is my reason for stating that.

Q. And not that you remember distinctly what the prices were, or anything about their relation to each other?

A. No, sir; I do not.

Q. Now, that was so throughout that whole period, up to the beginning of five years ago?

A. Yes, sir.

Q. Take sheet steel. In 1903, do you know the tonnage you bought that year?

A. My recollection is that the tonnage was about the same as we bought this year. That was an average tonnage. Some years we bought more than 3,000 tons, and other years we bought less. My recollection is that 1903 was a good business year.

Q. Would you undertake to say that you now recall from whom you bought that year, and the tonnages that you bought?

A. No, sir.

Q. You could not do that?

A. No, sir; I could not.

Q. Well, have you any recollection about the prices or the quotations that year?

A. No, sir.

Q. Or their relation to each other?

A. No, sir; I have not.

Q. As to what year could you give that? How far back could you go? I will begin with whatever year you say, and ask you about that. I mean, what is the farthest year back now that you remember distinctly from whom you purchased and who the bidders were, upon any of those purchases, and what the variations were in the prices? How far back would your memory serve you on that?

A. I can recollect very distinctly about prices a year and a half ago.

Q. Well, is that as far back as you think you could answer those questions?

A. Yes, sir.

Q. With any sort of safety?

A. Yes, sir.

Q. I believe you stated that the prices on tin plate were more uniform than they were on sheets?

A. Yes, sir.

Q. And how long did that prevail?

A. It has always prevailed; it has prevailed for the period we are talking about; ten years.

Q. Ten years?

A. Yes, sir.

Q. Now, please explain a little more fully what you mean by that, and I will ask you whether or not it is a fact that for long periods during the ten years, for as much as weeks at a time, or months at a time during that period, the price in tin plate was not uniform—the first quotations from the manufacturers?

A. Very frequently not uniform.

Q. Yes; you say very frequently not. I am just asking the opposite of that, if very frequently they were.

A. Very frequently they were.

Q. I understand by that that there would be periods, and frequent periods, during ten years, when prices would vary. That is correct, is it?

A. Yes.

Q. And there would also be periods, and they occurred frequently during the ten years, when the prices of the manufacturers over periods of time would be uniform?

A. Yes.

Q. When those prices would come to you, then, would you dicker and bargain?

A. Yes.

Q. Did you always, by bargaining, get below this uniform price quoted to you?

A. Not always, but usually.

Q. Sometimes you could not break through that barrier?

A. Absolutely.

Q. And that occurred often, did it, in ten years?

A. No, not often.

Q. But it did occur?

A. It did occur.

Q. You could not state the proportion of times or give any proportion of percentage as to when one prevailed over the other, could you?

A. No.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. When one manufacturer made a lower bid than another, did you ever give a higher bidder a chance to meet the price of the lower, and share in the order?

A. Yes.

Q. And would the higher bidder sometimes do that?

A. Yes.

Q. And then would you divide your orders?

A. Yes.

JAMES IRWIN STEPHENSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. What is your business?

A. The Cincinnati Iron & Steel Company. I am president of that company.

Q. How long has that company been in business?

A. Since 1901, January 1st.

Q. How long have you been its president?

A. About three years.

Q. What was your connection with it, if any, before that time?

A. I went with the Cincinnati Iron & Steel Company as vice-president nine years ago the first of this last September. I succeeded my partner as president when he died about three years ago.

Q. Have you had anything to do with the purchases?

A. Yes, from the time I went with the company I have had something to do with them.

Q. Have you had charge of them at any time?

A. Practically, yes.

Q. Practically all the time?

A. Yes.

Q. And the company was formed, you said, when?

A. 1901.

Q. So that it had been in business a little while before you went with it as vice-president?

A. Yes.

Q. What is the business of that company?

A. We are iron and steel jobbers and merchants.

Q. Do you do a brokerage business too?

A. Yes, we have quite a large brokerage business.

Q. What do you handle?

A. Structural shapes, plates, bar steel, bar iron, blue annealed sheets and some light sheets; that is about all.

Q. What tonnage passes through your books?

A. This year we will use 40,000 tons, but that has grown. When I first went there we used about 8,000 or 9,000 tons, and we increased very rapidly ever since each year.

Q. But from 8,000 or 9,000 tons up to 40,000 tons?

A. Yes.

Q. Do you buy and sell anything outside that does not go through your books?

A. Yes, we are district sales agents for the Lackawanna Steel Company on a commission basis.

Q. How long have you held that agency?

A. Well, I left the Carnegie Steel Company to go with the Cincinnati Iron & Steel Company, and took charge of that branch of the business as agent for the Lackawanna.

Q. When was that?

A. Nine years ago the first of last September. I was assistant manager of the district office at Cincinnati for the Carnegie Company.

Q. How long were you with the Carnegie Company?

A. Well, I would have to count up.

Q. Never mind; approximately?

A. Between nine and ten years.

Q. What percentage of your business during the last nine years has been in structural shapes and bar steel?

A. I would say between 75 and 80 per cent of it.

Q. That has been so during the whole period of nine years, has it?

A. Yes; we are pretty heavy on those lines.

Q. Did you ever buy from the Carnegie Company exclusively? I mean, shapes and bars?

A. Well, shortly after leaving them we bought quite a little tonnage, for us, from them, for several years, of such material as was not manufactured by the Lackawanna Steel Company. We being their agents, naturally were bound to give them everything that they could make.

Q. You mean to the Lackawanna, now?

A. That is, the Lackawanna, yes; but they only had a limited range of product, which made it necessary for us to buy probably 50 per cent. of our consumption elsewhere.

Q. Now, where did you get that 50 per cent. during the years 1904, 1905 and 1906?

A. We bought the bulk of that from the Carnegie Steel Company, if I remember correctly.

Q. How did that happen?

A. Well, we got a better deal with them.

Q. A better price?

A. A better price than we got from the other people.

Q. And you bought it on a competitive basis, did you?

A. Well, I tried the other fellows out. They never came to us, particularly, and I found that going to my friends, the Carnegie Steel Company, they put me in a position to do business at a lower price.

Q. That is what I meant; they gave you a lower price than you could get from the others?

A. Yes.

Q. How about since 1906?

A. I do not know just when we quit doing business with the Carnegie, but for five or six years, or four or five years, we have not bought very much from them; in fact, we have only bought such sections as nobody else could make, or else in competition on quick delivery.

Q. Where have you bought from during the last five or six years?

A. We have bought from Jones & Laughlin, the Lackawanna, Republic Iron & Steel Company, the Cambria Steel Company, Portsmouth Steel Company, La Belle, American Rolling Mill, from Worth Brothers, some; that is, in iron and steel products.

Q. Have your purchases been made from them on a competitive basis?

A. As a rule they have.

Q. Did you buy from the concern ordinarily which offered the lowest price?

A. Not always.

Q. What other factor entered into the trade?

A. The condition of that mill for quick delivery.

Q. From which of those named have you bought the largest percentage during the last five or six years?

A. The Lackawanna would have the first call and Jones & Laughlin would get a nice bunch of tonnage; sometimes the Republic Iron & Steel; sometimes the Cambria Steel Company.

Q. Have you found the prices of these different concerns varying or uniform?

A. Why, sometimes they are very much the same and sometimes they vary. It depends on the conditions.

Q. Did they or not generally vary more or less?

A. I might say generally—but if I thought the conditions were such that we should have several sources of supply, if we could get one fellow down to where we thought it was reasonable to go ahead and cover on a contract, we generally arranged some tonnage to the others, provided they would accept it at the same basis.

Q. And did they do that frequently?

A. Quite frequently.

Q. That is a matter of barter, I suppose?

A. Yes; private negotiation, really. Their salesmen would very seldom come to see us, because I go to the bosses when I buy.

Q. Does your last answer apply to your method of doing business generally during the last five or six years?

A. Altogether.

Q. You do not depend upon quotations alone—I mean in answer to those requests—or quotations from the salesmen?

A. I do not depend on the salesmen at all when we are buying. We look to the salesmen for general gossip as to the condition of the market, what their experience is and what prices are going. We put that together with the information that we get from our own men, to keep the thing sized up generally.

Q. Upon what principle do you select the concern that you dicker with; or do you dicker with all of them?

A. We dicker with all of those mentioned. If the Lackawanna makes us a price and I have to go out and resell that stuff, and that price will not permit me to do that and make a proper profit, I say so; and if they do not come across, there is only a certain amount of tonnage. We have to resell all of our product.

Q. What does that make necessary?

A. A lower price.

Q. A lower price than what you sell it for?

A. Yes.

Q. That is what you mean?

A. Yes.

Q. Have you found, as a result of this course that you pursue, that the prices of the different concerns were not constant, but were flexible?

A. The flexibility would depend upon the amount of persuasion and the desirability of your tonnage.

Q. I am supposing you had a desirable order to offer. Then did you find that the prices were flexible?

A. Generally.

Q. Did you find that the prices at which you made your contracts corresponded with the quoted prices in the Iron Age, or did they differ?

A. We never depended on those prices at all. They were frequently very much off.

Q. Is that true of the whole period of ten years last past?

A. I have never depended upon the trade papers at all.

Q. Do you see them?

A. Yes; I see them.

Q. You have noticed their quotations?

A. Yes.

Q. With what result?

A. Well, as a rule, I have not had very much respect for them?

Q. Why?

A. They did not represent what I was doing, and what I was forced to do, to sell to others, quite frequently.

Q. Did they represent what the manufacturers were actually asking from you, either?

A. No; except in some cases. They would report prices which were a good deal higher than those you could buy at, and they would also report prices which were lower than we could buy at, try as we might.

Q. Has there been any time during the last ten years when there has not been active competition in all these steel products that you have bought?

A. My impression is that there has been a great deal of competition?

Q. And during that whole period?

A. During that whole period.

Q. Is that true of each of the articles that you deal in?

A. Yes, sir.

Q. And has that competition been between all of the concerns that you have named, or between only a part of them; that is, have they all competed with each other, or has the competition been confined to a few only?

A. The competition is between them, and competition is also between us and them after we buy the stuff and go out and sell it against them.

Q. Do you sell against them some of the things you buy?

A. Yes, sir; we have to.

Q. Have you found that fact affected your purchasing ability from them?

A. No, sir; they like our specifications pretty well; they are very desirable.

Q. And they sell on your specifications without regard to what you are going to do with the articles after you have bought them?

A. Exactly; except that they do not want us to go after some of their old trade that they have had on their books for years and try to disturb it, which is perfectly natural.

Q. You have represented the Lackawanna; do you sell for them?

A. Yes, sir.

Q. And that has been so during the whole nine years?

A. Yes.

Q. Do you sell all their product that you are able to?

A. Yes.

Q. In what territory?

A. In the States of Tennessee, Kentucky, the southern half of Ohio and Indiana.

Q. Have they been sold in competition with the products of the other steel manufacturers?

A. From the way we work I should say so.

Q. What do you mean by that?

A. Chasing after the business.

Q. Do you quote a price agreed upon by the other manufacturers, or your own independent price?

A. I quote, as a rule, what our general sales agent says that we should quote.

Q. So far as you know, is that price a price agreed on with any other manufacturer?

A. Not so far as I know; and furthermore, if that price does not take the business, we are not sure that is the end; we might hang around two or three days and get another shot at him.

Q. With a different price?

A. Sometimes.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By MR. COLTON:

Q. When did you first begin to read the Iron Age regularly?

A. I never did read it regularly.

Q. The prices in the Iron Age; when did you first take those up regularly from week to week, if at all?

A. Oh, I have never noticed them regularly. Probably just in an occasional way; I read the Pittsburgh notes and what Chicago says. I read it more for the general conditions in the trade than I do for prices.

Q. You have not paid very much attention, then, to the prices in the Iron Age?

A. Oh, when I look at it I see what the prices are enough to compare them in my own mind with conditions which I know.

Q. What is the first year that you began to do that?

A. When I was—naturally, when I first went in the steel business, about twenty years ago.

Q. You began to read the Iron Age twenty years ago?

A. Just about.

Q. Did you begin reading the prices twenty years ago in the Iron Age?

A. Just about.

Q. And you have been reading them ever since?

A. Off and on.

Q. How regularly did you read the prices during the years 1904 and 1905?

A. I could not tell you. Probably every other week; maybe every week. I don't remember that. I have tried to keep posted on the market.

Q. Do you have any recollection as to how the prices on structural steel during the years 1904 and 1905 corresponded or varied from the prices in the Iron Age?

A. No, I do not remember.

Q. Did you not read in the Iron Age about the structural and plate pools and other pools that were in existence at that time?

A. Oh, there were certain rumors in the trade that I heard of, but I never knew anything about that.

Q. And you do not know how far the official prices of these various pools were maintained at that time, do you?

A. I was always instructed to get the business, and I generally got it.

Q. Were you not given a price at which you were to get the business?

A. Yes, and if that did not take, I frequently got on the long distance telephone, and it would end by my getting the business, if the specifications were desirable and the credit of that man was also desirable, and we could meet the delivery.

Q. Who gave you the prices at that time, in 1905? From whom were you receiving your prices at that time?

A. Let us see. In 1905, I think Major Rhodes then; Major Rhodes then, I believe, was general sales agent of the Lackawanna Steel Company.

Q. Did you have any authority, without communicating with Major Rhodes, to vary the price at that time?

A. I want to locate this period, because I left Carnegie nine years ago. Let us see, nine and five are fourteen. Why, I do not remember at that time whether I did or not.

Q. The general policy was to establish the price at headquarters, in the first instance, was it not?

A. Yes, the general sales agent originated the price always.

Q. And that was your price in the first instance, in any event?

A. Yes.

Q. And has that been true throughout the period, as regards the Lackawanna Steel Company and your agency for them?

A. Exactly.

Q. And was that true of the Carnegie Company throughout your connection with that company as sales agent?

A. Yes, sir.

Q. Do you now have, as to the year 1905, any recollection as to how far the Iron Age prices of structural steel corresponded to the prices that you received from your general sales agent?

A. No, I have no recollection about that.

Q. Have you for the year 1906?

A. No, I have not.

Q. 1907?

A. Not very distinctly, no.

Q. 1908?

A. No, I could not say that, either.

Q. 1909?

A. Nor that, either.

Q. 1910?

A. I don't remember that

Q. 1911?

A. 1911?

Q. Yes.

A. Let me see. Not exactly, no.

Q. 1912?

A. Well, there was considerable variation.

Q. In 1912?

A. Yes.

Q. You recollect that?

A. I do.

Q. In 1913?

A. The same.

Q. Now, take plates; do you recall the questions I asked you in regard to structural material well enough to answer the same questions for the different years from 1905 down to the present time, in regard to plates?

A. As far as prices are concerned, my answers would be the same, because I have no memory along those lines particularly. I would have to get the data and look it up.

Q. If I asked you in regard to bar steel, would your answers be the same?

A. In the same way.

Q. As to sheets, would your answers be the same?

A. No.

Q. Well, suppose we take up sheets.

A. I do not know. If you call the years, I cannot remember any specific year, but I know that we started in the blue annealed sheet business—you can leave out our light sheet business, which does not amount to anything—but on blue annealed, which takes a gauge from 10 up to 16, we bought at all kinds of prices for the last four or five years from the

Stark Rolling Mill, La Belle, Portsmouth, and the American Rolling Mill Company.

Q. Your recollection in reference to sheets, then, goes back four or five years?

A. Just in a general way, because that was an item we were starting in to develop. The other was an established business.

Q. As I understand, you found a wider variation in respect to sheets than in respect to structural products and plates?

A. If you will ask that question in another way, I might give you something different, or something more satisfactory, and that is this: the structural market, whatever it was supposed to be, and whatever it was shown, we were always able to do better—sometimes a dollar and sometimes a dollar and a half and sometimes two dollars a ton, and on top of that, we might turn around, and for the sake of delivery, pay one dollar or two dollars a ton over that prevailing market, in order to give service to our trade.

Q. What do you mean by the “prevailing market” as used by you in that answer that you have just made?

A. There are times in the steel trade where the mills are booked, say, 60 or 90 days ahead, and they are very comfortable, and you might say then that you have a market which has sought its natural level. The object in the steel business is not to sell at the lowest price that you possibly can, but to sell at as high a price as the trade will stand and still get the business. So where a man is comfortable and is not running around after orders, and he has his mills booked for 60 or 90 days ahead, he says “This is my price.” It may be two or three dollars a ton over what the other fellow wants, but the other fellow holds his price down to keep the market from running away, and killing the goose that laid the golden egg, which has been done in the past.

Q. What do you mean by “the prevailing market”? I do not understand that.

A. The market ruling at the time.

Q. Ruling by whom?

A. For instance, I can cite this last year, if that would be an illustration.

Q. I want to know what you meant when you spoke of the "prevailing market," whatever you do mean by it.

A. Why, the ordinary market price at which a fellow comes in and says "I want a carload of stuff," and you say "The price is so and so."

Q. Is that the general price?

A. The general price.

Q. Made by the different manufacturers?

A. Made by the different manufacturers; some of them wanted more if they could make a quicker delivery.

Q. And that is the price from which you could get a concession, the price on which you would have to pay a premium above, is that right?

A. Yes; that is about right.

Q. Now, the Iron Age quotes premiums over the prevailing prices, does it not, ordinarily, for speedy delivery?

A. It has in the last year and a half, because there has been such a congestion among the mills, and been so much premium stuff that it has really represented the real market.

Q. The premium has come to represent the market in the last two years?

A. A year and a half. That is the point I was going to make a while ago, that corporations, for instance, who were selling structural steel quoted structural steel at \$1.45, and you could not give them the business, because they could not promise delivery, as a rule; they were booked up for seven or eight months ahead, but if you went to Cambria or some other fellow and paid him \$1.50 or \$1.55 or \$1.60 you could get your stuff maybe in two weeks or maybe two months.

Q. You are speaking of the conditions as they existed about 1912, I understand?

A. As they existed in 1912 and the first half of 1913.

Q. Now, this prevailing market price of which you have spoken would continue for considerable periods of time during the various years in structural and plates, would it not?

A. Well, there would be what you might call a market

level, which would be based upon the mills being in good shape, with orders on the books, and the premium would disappear when the mills caught up, and they would start after the business.

Q. Now, getting back to this prevailing market price; as I understand, that has continued at different periods of time for several weeks or months at a time, has it not?

A. Yes.

Q. And that has been true throughout the period of the last ten years?

A. No; I would not say that, because if I referred to a prevailing market price I would refer to a price on common, ordinary business, the garden variety of stuff, a carload of bar steel with fifteen sizes in it. If you came along with a thousand tons, with two or three sections in it, you could buy it and buy it right.

Q. Large orders enabled you to break through this market price to a much greater extent than you could break through the market price if you had a small order to place, did it not?

A. Desirable tonnage, or specifications on which the mills could make more money than they could on just the little ordinary stuff, with us invariably got a better price.

Q. And the volume of your business and the character of your specifications gave you strength in getting the kind of prices that you succeeded in getting; is that right?

A. Invariably so; it is a matter of tonnage with all the mills.

Q. What tonnage of structural steel did you get from the Lackawanna in 1905?

A. I don't remember. Our contracts, as a rule, cover structural shapes, plates and bars. If the conditions were right we generally took all that tonnage and maybe more; if they were not, we did not.

Q. You have a minimum tonnage with them, or a maximum tonnage?

A. As a rule the contract generally called for a leeway.

Q. I know the contracts called for a leeway, but did not

you have specified in there a minimum tonnage that you shall take out and then a maximum tonnage that you may take?

A. Yes; say 5,000 to 6,000 tons, or something like that.

Q. During the year 1905 from what other makers do you now recall that you purchased structural steel?

A. My best recollection is the Carnegie Steel Company.

Q. Is that the only company from which you purchased other than the Lackawanna?

A. I could not say; we might have bought some from the Cambria Steel Company.

Q. That is the only one that you do remember for the year 1905?

A. That is the only one I can say definitely.

Q. What kind of contract did you have with the Carnegie Steel Company for structural steel during the year 1905?

A. I really couldn't tell you.

Q. Did it specify a minimum tonnage?

A. They all specify a minimum and maximum tonnage.

Q. In the year 1906 from what company other than the Lackawanna did you purchase structural steel?

A. Carnegie Steel Company.

Q. And that is the only company that you can remember for the year 1906 other than the Lackawanna?

A. We were splitting our business practically between the two, outside of bar steel; we bought some from the Republic.

Q. How long did you continue to split the business in that manner?

A. To tell you the truth, I do not know; I know that the time came when I could not buy from the Carnegie Steel Company on conditions which suited me, and we flopped over to Jones & Laughlin and the Cambria.

Q. And you cannot tell the year?

A. No, I cannot.

Q. I understood you to say that you took up your contracts with friends in the Carnegie Steel Company. With whom did you take up the question of placing your contracts with the Carnegie Steel Company in 1905 and 1906?

A. I used to deal with Sam Benner, Samuel A. Benner; he was sales agent then, and Colonel Bope.

Q. You have been under both of those men, Mr. Benner and Colonel Bope?

A. Yes.

Q. Then for the year 1907, can you state whether you purchased structural steel from any other companies than the Carnegie and the Lackawanna Company?

A. I could not, positively, no.

Q. For the year 1908 can you state?

A. I think that is about the time that we quit Carnegie, but I would have to look that up—I couldn't remember that.

Q. In 1908, from what different companies did you purchase structural steel?

A. Well, one of them would be the Lackawanna; I think the other would be Jones & Laughlin, and we might have gotten some from the Republic. They only make structural angles.

Q. During the years 1905 to 1907, inclusive, in which you were splitting your business between those two companies, do you now recall any other companies from whom you solicited bids on your various tonnages, and if so give the names of the companies, if you can?

A. What period of time was that?

Q. 1905 to 1907, inclusive.

A. I tried a number of times to buy from the Cambria Steel Company. There is the Carnegie, Jones & Laughlin, the Lackawanna and the Cambria Steel Company; they were the ones that made structural steel, outside of these eastern fellows that were too far away. We tried a number of times to get prices from the Cambria Steel Company which would enable us to handle the business, but we were never able to do it until some years later.

Q. When did you first try Cambria?

A. I don't remember; I think it was probably about 1907; around in there, about two years after I went with these people.

Q. Is the Cambria's freight rate the same as the Pittsburgh freight rate, if you know?

A. I am not sure but what it is a little bit higher.

Q. Of course you would look at the delivered price rather than the f. o. b. Pittsburgh price in determining whether you would place your order with Cambria or Jones & Laughlin would you not?

A. No, not altogether, because we ship stuff all over the United States; if we made a deal we would put it on the basis on which prices have for years and years and years been quoted. That is on a Pittsburgh base, so that everybody could figure on Pittsburgh freight and know where they were at.

Q. Don't you purchase a very considerable portion of your steel for delivery in Cincinnati?

A. Yes, about half of it.

Q. About half of it is for reshipment from there?

A. Yes.

Q. Do you also purchase for delivery in Cincinnati where the manufacturer pays the freight?

A. Nobody ever prepays for us.

Q. You prepay the freight yourself?

A. No; we do not prepay; we follow.

Q. Do you now state as a matter of recollection that you did solicit bids from the Cambria Company for 1907?

A. Yes; I am pretty sure. We wanted as many strings to our bow as we could get.

Q. You do not remember what they quoted you at that time?

A. No.

Q. From what companies did you solicit bids in 1908?

A. The Lackawanna, Jones & Laughlin, I think, and the Republic.

Q. In 1909?

A. About the same. You can take it all the way through and those are the people we have been doing business with.

Q. You did not try Carnegie during those years that you have said "take it the same for the rest of the years"? You meant you did not try—

MR. LINDABURY: He has not said he did not try Carnegie in 1907 and 1908.

By MR. COLTON:

Q. Did you try Carnegie in 1909?

A. We gave the Carnegie Steel Company opportunities to get our business right along. I don't remember just when we quit it, but it was several years after we quit that I made the remark to one of the Carnegie men, I think it was Billy Clyde——

MR. COLTON: I object to that as volunteered.

MR. LINDABURY: Go on and finish your answer, Mr. Stephenson.

MR. COLTON: I object to that statement as volunteered.

MR. LINDABURY: You may move to strike it out, but the witness must be allowed to finish his answer.

THE WITNESS: I made the remark then that they did not seem to care anything about our business any more.

By MR. COLTON:

Q. Did you quit asking them for quotations then?

A. I don't remember when.

Q. At that time?

A. After we had gone over there with actual specifications on a few occasions, we had laid them on the table, and they evidently looked awfully good to them, because they took them——

Q. After you made that remark which you have just quoted, to the effect that the Carnegie Company did not care for your business, how long was it after that before you again solicited the Carnegie Company on your purchases?

A. Oh, I don't know; it might have been a few months or six months or a year.

Q. When did you make that remark?

A. That remark, I think, was made about five or six years ago.

Q. That was your opinion at the time you made that remark?

A. Yes.

Q. From whom were you purchasing the majority of your plates during the period from 1905 to 1907, inclusive?

A. The Carnegie, and Lackawanna, such plates as we used. We were not very heavy in the plate business then.

Q. You divided your tonnage in plates between those companies, to the best of your recollection?

A. Yes.

Q. From what companies did you purchase your bar steel during the years 1905 to 1907, inclusive?

A. The Carnegie Steel Company got the bulk of it.

Q. From 1907 to 1910, inclusive, from what different companies have you purchased your bar steel?

A. Our bars were purchased right along with the structural, the same contracts.

Q. So your answers for the different companies from whom you purchased your structural steel would be, with the exception of the Republic Company, the same for bars as for structural steel; is that right?

A. Yes, sir.

Q. And your plate business did not amount to much until—when?

A. It began to grow about four years ago, along with our blue annealed business.

Q. In 1909?

A. Yes.

Q. And in 1909 you purchased plates from what different companies?

A. The La Belle Iron Works, the Portsmouth Steel Company, and of course, blue annealed steel went right along in with that—outside of Jones & Laughlin and the Lackawanna Steel.

Q. You understand that when I speak of plates I refer to that class of material that is usually called plates as distinguished from sheets?

A. Oh, yes; that is what I mean. Our plates and blue annealed tonnage went together, as a rule, because we could make mixed carload shipments.

Q. Is that 12-gauge and thicker?

A. The plate is No. 8 gauge and heavier, and blue annealed is No. 10 gauge up to 16 inclusive.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Only a question or two more. Mr. Stephenson, do you remember Herbert Sanborn Smith, in connection with the general sales agency of the Lackawanna Company?

A. Very well.

Q. And do you remember whether or not he was sales agent when you took the agency for that company?

A. He was not at that time.

Q. Do you remember how soon he became general sales agent?

A. Not exactly. I have no memory for those things that are past, but he succeeded Major Rhodes when the Major died.

Q. You do not recall about when that was?

A. No, sir; I really do not.

Q. Was he there for some time?

A. Yes; for quite a number of years.

Q. Why did you remark that the Carnegie Company did not seem to want your business, on the occasion you say you made that remark? Were their prices higher than the others?

MR. COLTON: I object to that as immaterial and irrelevant, and to the latter part of the question as leading.

By MR. LINDABURY:

Q. You may answer.

A. They would not give me a price that would enable me to do business.

Q. Would they not give you a price that compared favorably with the prices you got elsewhere?

A. No; I could always beat their price.

MR. LINDABURY: That is all.

RECROSS EXAMINATION

By MR. COLTON:

Q. One other question: In what tonnage do you usually place your contracts? How many tons do you have in your contracts, as a rule?

A. Well, that depends on conditions. Sometimes we will buy for three months and sometimes for six months.

Q. I know; but about what tonnage would that be?

A. Anywhere from 3,000 to 5,000 tons.

MR. COLTON: That is all.

MR. LINDABURY: That is all.

EDWARD W. GREENO

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live, Mr. Greeno?

A. Cincinnati.

Q. What is your business?

A. Jobbing supplies to the furniture trade and the manufacture of steel furniture springs; wire springs.

Q. Have you a corporation?

A. We have.

Q. What is its name?

A. C. L. Greeno Company.

Q. What is your relation to that company?

A. President and treasurer.

Q. How long have you held those offices or either of them?

A. I have been president about one year, and I have been treasurer nine years.

Q. Have you anything to do with the purchases of supplies?

A. For the end of the business which we call our spring department, I buy all the material for that department.

Q. How long have you been doing that?

A. For approximately ten years, directly and indirectly. My father formerly had charge of this department of our business, and up to five years ago he bought the material him-

self, although I was his assistant and oftentimes bought, but with his knowledge; and for the last four or five years I have had entire charge of that end of it.

Q. Was this business originated by your father?

A. It was.

Q. How long ago?

A. Well, about forty years; it has been in existence about forty years.

Q. How long have you been connected with it?

A. Well, indirectly, ever since I was a boy; I guess about sixteen or seventeen years.

Q. How much wire do you buy a year?

A. It varies from 800 to 1,000 tons.

Q. Do you buy anything except wire?

A. We buy hoop.

MR. DICKINSON: What is that? Hooks?

THE WITNESS: Hoop; steel band hoop.

By MR. LINDABURY:

Q. How much of that do you buy?

A. About 200 tons.

Q. And just what do you do with the hoop?

A. Well, with the hoop we manufacture a support on which we mount springs which are used in the manufacture of furniture, for the seats; for automobile seats and wagon seats, and kindred use.

Q. Those that we see in the trade?

A. Yes; the regular trade article.

Q. And do you buy your springs coiled, or the wire and coil them?

A. We buy the wire and manufacture the springs.

Q. And it is this wire that you have been purchasing as you have said?

A. Yes.

Q. That is your principal article of use?

A. Yes.

Q. How do you buy your supplies; on a competitive basis, or on some other?

A. On a competitive basis.

Q. Do you buy anything from the American Steel and Wire Company?

A. We do.

Q. From anybody else?

A. Yes; from the Youngstown Sheet & Tube Company and Page Woven Wire Fence Company, and, oh, various companies at different times, but those are the most important companies.

Q. Do you buy from John A. Roebling's Sons?

A. We have bought from Roebling, but on account of his location, he is pretty near out of our market there to-day.

Q. Yes. Now, do you buy on contracts for future delivery, or for immediate supply—for immediate requirements?

A. Well, as a rule we buy on contracts covering a period of six months, for so many tons to be taken out during that period.

Q. Do you get quotations?

A. We do.

Q. How? By solicitation?

A. By solicitation, principally, from salesmen, although at times, when the salesman has not been in that territory, or when we want to place orders, we write for them.

Q. How many salesmen visit you? How many concerns?

A. Well, I would say about four or five.

Q. Do they do it regularly; that is, frequently?

A. They do it frequently.

Q. In the regular course of their business?

A. Yes; probably within the period of every sixty days. Some of them oftener than that.

Q. Do they make quotations to you?

A. They do.

Q. And, in addition to that, I understand that you sometimes write to the manufacturers for quotations?

A. Yes.

Q. When the agent has not—

A. (Interposing) When he is not there, and we want to learn what the market price is, or we want to buy.

Q. The quotations you get from these concerns, do they ordinarily agree or vary?

A. There have been instances where they have agreed, but very rare; as a rule, they vary.

Q. And to an appreciable extent?

A. Well, what we would term appreciable; oftentimes to the extent of 50 cents to \$3.00 a ton.

Q. That is material oftentimes, is it?

A. Yes.

Q. From how many do you generally get quotations?

A. From three, which are the most important people in this line.

Q. Do you get them regularly?

A. Yes, regularly.

Q. Which three?

A. The American Steel & Wire; Youngstown Sheet & Tube, and the Page Woven Wire Fence Company.

Q. How long have you been getting quotations regularly from them on all your purchases?

A. Well, I would say three years on the three. Prior to that time we got regular quotations always from the Youngstown and the American, and during the course of those years we always got quotations from the others, because their men were in to see us at various times, and would leave their prices, and we would record them for comparison.

Q. Your statement that agreement in quotations was rare, does that apply to all of them?

A. Yes.

Q. That is, there were no two of them that generally agreed?

A. No.

MR. DICKINSON: I object to that as being leading.

By MR. LINDABURY:

Q. If any two agreed at a given time, did they generally agree at a succeeding time, or would there be another two who would agree if there was an agreement?

A. I never can recall a time when two quotations continued for any length of time to be the same.

Q. And you are speaking now of the whole period of ten years, are you?

A. Yes.

Q. Did you ever observe anything to indicate a combination between these manufacturers on prices?

MR. DICKINSON: This is objected to as incompetent, because it calls for an opinion of the witness, not upon any given state of facts, but what may present itself to his own mind, and which is unrevealed to the Court.

THE WITNESS: I never did.

By MR. LINDABURY:

Q. Has there been any time during the last ten years when competition between these different concerns was not active?

A. Not to my knowledge.

Q. I mean, as they approached you and as you came in contact with the business?

A. There was always competition. They had inducements of some kind to offer in the way of price or delivery.

Q. And did that competition seem to be keen all the time?

A. Yes; keen enough for them to come back again and keep right after it.

Q. Did they change their quotations at times?

A. At times there has been a change, when they would see a disposition on our part not to buy right at that period. They might come back at us again with a little more attractive proposition in some way.

Q. Would that practice be confined to one, or would it be more or less indulged in by all of them?

A. More or less with all of them.

Q. Where is your market?

A. What do you mean by that?

Q. The market for your products?

A. Well, the Southern States, and the Central States; some Eastern States; through the Northern States; in the far east we sell very little.

Q. Have you competition for the sale of your products?

MR. DICKINSON: This is objected to, because it does not appear that the products sold by the witness are of the same character as the products which are involved in any of the issues in this case.

MR. LINDABURY: He has told what he sells. Go on and answer the question.

THE WITNESS: I have plenty of competition.

MR. DICKINSON: Well, what do you sell? Mr. Lindabury says you have told what you sell. I did not understand it.

THE WITNESS: We manufacture springs of all kinds; principally the kind of springs which are used in automobile seats and used by the furniture trade for seat construction.

By MR. LINDABURY:

Q. Who are your leading competitors in the sale of your springs?

A. The American Steel & Wire Company is our leading competitor, I would say, although the Morgan Spring Company—I guess we have about the same respect for them in the way of competition.

Q. Do you think of any more?

A. Foster Brothers, of Utica, New York, and St. Louis, and the Miller Spring Company, of Bridgeport, Connecticut. There are a great many more; I cannot think of all of them.

Q. Well, if you can think of any others?

A. The Jackson Cushion Spring Company of Kalamazoo, and the Barber Manufacturing Company of Anderson, Indiana. Those are the ones that are most important.

Q. Do you all quote the same price?

A. I am not always familiar with what their prices are, but we do not, as a rule.

Q. Have you any agreement to fix prices?

A. Absolutely no, sir.

Q. Have you ever had?

A. We never have had.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Where do you sell your product mainly?

A. In the Central States, I would say, is our best field.

Q. How far east?

A. We sell some in New York State, around Binghamton, in that territory, in that district.

Q. How far west?

A. To Denver.

Q. How far north and south?

A. From Michigan to Texas, New Orleans.

Q. You sell pretty much all over the whole country?

A. We sell pretty much all over the whole country, except in the extreme east. We have sold some here in New York, but not often.

Q. You say you have had entire charge of the purchases for the last five years?

A. Yes.

Q. What was your position with the company before that?

A. Well, my position was assistant to my father, I would say.

Q. What was your father's position?

A. My father at that time—I was going to say it was not a corporation—my father was president and also general manager of both branches of our business.

Q. Take six years ago; that is, 1907; what tonnage in hoops did your company buy that year?

A. At that period we bought no hoops at all.

Q. Well, what tonnage did you buy then in spring wire?

A. About 250 to 300 tons; it might have varied a little bit from that.

Q. What was the money value of that?

A. Well, it varied; as a rule I would say that stuff was worth in the neighborhood of \$40 a ton.

Q. Now, take the year 1906: what tonnage did your company buy in steel wire?

A. Just about the same.

Q. That is to say, about 250 to 300 tons?

A. 250 to 300 tons. We did a very conservative business at that time in this particular line, and it was not until the last five years that we have increased that department of our business.

Q. In 1906 from whom did you buy that 250 to 300 tons?

A. I cannot recall all the companies, but I do recall that we bought some of that tonnage from the Youngstown Sheet & Tube Company, and some from the American Steel & Wire Company, and I have no doubt that we made purchases during that year from Roebling and some of these other companies.

Q. But you only remember those two?

A. I remember distinctly those two.

Q. Now, what tonnage did you buy that year from the American Steel & Wire Company?

A. I would say about 80 per cent. of it.

Q. Take the year 1907: what percentage did you buy from the American Steel & Wire Company?

A. I am speaking of wire now, not hoops.

Q. That is what we are talking about all the time.

A. Just about the same amount.

Q. And during 1908?

A. It has varied throughout the years just about that much. Our business is classed in two businesses; we have two classes of springs, and of the higher grade wire we purchase from the American Steel & Wire Company, as a rule.

Q. That is about 80 per cent. of your requirements?

A. Yes.

Q. And that has been so for the last ten years?

A. Yes, since the period when they started to make carbon wire such as we use.

Q. Of that class of wire, such as you bought from the American Steel & Wire Company, did you buy all your requirements from them of that class?

A. No; oftentimes we bought from John A. Roebling; that concern I remember distinctly having bought from.

Q. That class of wire which was 80 per cent. of all of your wire purchases, how much did you buy in any one year that you can state, of John A. Roebling?

A. Well, in any one year, that I can recall, I never bought more than one or two cars; probably 50 tons.

Q. From John A. Roebling?

A. Yes.

Q. Did you buy that class of wire from anybody else except the American Steel & Wire Company and John A. Roebling?

A. No.

Q. Now, of that particular class of wire in 1907 from whom did you take quotations on your purchases, that you can recall now?

A. The Page Woven Wire Fence Company, I think about that period, although I am not absolutely certain that that was the time they started in the wire market, but it seems about that time to me now. Prior to the time I took hold of it exclusively, the Page Company, Roebling, and the American Steel & Wire Company.

Q. Were they the only three that made that kind at that time?

A. To my knowledge they were.

Q. So, until the Page Company came in on that particular kind of wire, you only took quotations from the American Steel & Wire Company and Roebling, at the particular times you have mentioned?

A. That is correct.

Q. So that practically, then, with those qualifications you have bought 80 per cent. of your wire requirements from the American Steel & Wire Company without taking quotations from anybody else?

A. No.

Q. I say, subject to those limitations?

A. Subject to those limitations, yes.

Q. And to make it perfectly plain——

A. (Interposing) You are speaking of the higher grade wire now?

Q. I am speaking of the higher grade wire.

A. I understand.

Q. Which was 80 per cent. of your requirements?

A. Yes.

Q. And which you bought entirely from the American Steel & Wire Company up to the time that Page began?

A. Yes.

Q. With the exception of the car or two carloads that you bought from Roebling; that is what I mean.

A. That is correct.

Q. You do not know when Page began?

A. Not the exact date, I do not.

Q. Besides this grade of wire what kind of wire do you buy?

A. A grade which we term the Acme grade, which is a lower grade than the grade referred to above.

Q. Did you buy that throughout those ten years, that Acme?

A. Yes.

Q. Take the year 1913, what tonnage have you bought of that Acme?

A. About 200 tons, I would say, without being confined to exact figures.

Q. How would that run on back say for ten years; would there be a decreasing amount?

A. In a decreasing proportion to our other tonnage, do you mean?

Q. No; would it be decreasing from 200 tons?

A. Yes.

Q. Back five years about what was it?

A. I guess approximately 50 to 75 tons.

Q. Now, in the year 1913, from whom have you bought of this Acme wire?

A. From the Youngstown Sheet & Tube Company and the American Steel & Wire Company.

Q. What proportion of all of your wire requirements for 1913 have you bought from the American Steel & Wire Company?

A. About 80 per cent.—75 to 85 per cent. I am not confining it to that.

Q. I was taking this 80 per cent. of the whole represented by the higher kind, and then I understood you to say that you bought a portion of those 200 tons from the American Steel & Wire Company?

Q. You say that might raise it to 85 per cent.?

A. Yes; it might.

Q. Would that be the same for 1912, approximately?

A. Yes.

Q. And 1911?

A. Yes, although our requirements in 1911 had not been so large as they were in 1912 and 1913.

Q. Because you have had an increase—a gradual increase. Take the Acme wire: do you know from whom you bought in 1906?

A. As I can recollect, we bought from the Youngstown Sheet & Tube Company and the American Steel & Wire Company.

Q. Do you remember what concerns you solicited quotations from on that kind of wire for the purchases you made that year?

A. Outside of those two I cannot recall.

Q. You do not remember what the quotations were?

A. At that time, no; I do not.

Q. How about 1905? Do you know the amount of purchases for that year?

A. Do you mean the price?

Q. No; the amount you got, about, of Acme wire.

A. Not exactly; I cannot tell. But in 1905 about 50 to 75 tons, I would say.

Q. Did you get that from the Youngstown and the American Steel & Wire Company also?

A. Yes.

Q. Do you know anybody else you got quotations from except from them?

A. No.

Q. How about 1904?

A. I think the same condition would prevail at that period.

Q. That is as far back as you go, is it?

A. Just about, yes.

Q. Take 1907: from whom did you buy this Acme wire?

A. From the Youngstown Sheet & Tube Company and the American Steel & Wire Company.

Q. Would that be the same for 1908?

A. Yes.

Q. For 1909 and 1910?

A. Yes.

Q. Do you remember anybody else you took quotations from on any purchases of that wire, other than those?

A. That particular grade, no.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

(Whereupon an adjournment was taken until to-morrow, Tuesday, December 2, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-SECOND DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, December 2, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON
and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR.
SEVERANCE and MR. BOLLING.

PHILANDER L. CARTER

was called as a witness on behalf of the defendants, and being
first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live, Mr. Carter?

A. Jackson, Michigan.

Q. And what is your business?

A. Manufacturer of woven wire fence.

Q. What is the name of your company?

A. Jackson Fence Company.

Q. What is your official connection with that company?

A. I am president of the company.

Q. Will you state what that company manufactures?

A. It manufactures woven wire fence and fence stretch-
ers, the principal products.

Q. Do you manufacture anything in the line of poultry
netting?

A. We manufacture a poultry fence that comes in com-
petition with the so-called poultry netting.

Q. How many classes of woven wire fence, or how many
weights do you make?

A. Four. We make what is known as an extra heavy No. 9 fence; medium heavy No. 11 fence, and a standard No. 12 fence, and two weights of poultry fence.

Q. When was the Jackson Fence Company organized?

A. November 15, 1905.

Q. When did you get your plant in shape to do business?

A. The early part of 1906.

Q. Did you build your plant or buy it?

A. We built and developed the machines.

Q. Have you certain peculiar machinery that you use in manufacturing fence?

A. Yes, sir. They are machines that are covered by patents, and which were developed by ourselves to manufacture this particular type of fence.

Q. Do you build the machines, as well as make the fence?

A. Yes, sir.

Q. And where do you build the machines? There at Jackson?

A. At Jackson.

Q. Are those machines used in any other factories than yours?

A. This type of fence is built by, I should say, oh, five or six different manufacturers.

Q. Where are they located?

A. At Adrian, at Cleveland, Crawfordsville, Indiana, and at Warsaw, Ohio. I think there is one plant down there.

Q. Are those plants controlled by you?

A. No.

Q. Or are they owned by other parties?

A. Oh, other parties.

Q. Are they separate from each other?

A. Yes, sir.

Q. And do they operate under your patents?

A. No, sir.

Q. Do they use your machines?

A. No, sir.

Q. I thought you said that type of fence was used——

A. (Interposing) Well, this particular type of fence, there

have been several machines that have been developed for the manufacture of this particular type of fence.

Q. Yes.

A. Our machines as developed by us are for our exclusive use.

Q. I see; but the peculiar kind of fence, you mean?

A. Yes.

Q. Is made by other machines?

A. Yes, of a similar nature.

Q. Yes.

A. The tie may vary.

Q. Are those classes of fence that are made by these other people and yours somewhat different in the tie and mesh from the fence made by the American Steel & Wire Company?

A. Yes, sir.

Q. Are they sold in the market in competition with the Steel & Wire Company?

A. Yes, sir.

Q. What was your output the first year you were doing business?

A. Approximately 1,500 tons.

Q. What will be your output during the present year?

A. Approximately 10,000 tons.

Q. Has the business increased gradually or irregularly?

A. It has increased gradually from year to year.

Q. Where do you now and where have you bought the wire from which you have made your fence?

A. We have bought our entire requirements of the American Steel & Wire Company.

Q. From the beginning?

A. From the beginning, yes, sir.

Q. In what way do you make those purchases?

A. Why, usually by contracts for periods of six months, after ascertaining the market conditions and getting quotations from others.

Q. That is, do you mean for six months your contracts provide a maximum and minimum tonnage—an estimate to cover your requirements?

A. We generally estimate to cover our probable requirements for that period, and buy accordingly.

Q. And buy a certain tonnage?

A. Yes.

Q. You say that you make those contracts after securing quotations. How many different concerns are there that you secure quotations from?

A. The number, or to name them?

Q. Well, about. I do not care; just about?

A. I should say four.

Q. Four?

A. Yes; four or five.

Q. What are they?

A. There is the Pittsburgh Steel Company; the Youngstown Sheet & Tube Company, the Cambria Steel Company, and the Jones & Laughlin Steel Company.

Q. You say it is your practice to secure quotations before entering into contracts?

A. Yes, sir.

Q. How are those quotations that you secure from different manufacturers? Have they been uniform or varying?

A. Varying.

Q. What efforts, if any, have been made, by solicitation or otherwise, by these other wire manufacturers, to secure your business?

A. Why, we are solicited continuously from the different wire companies.

Q. Well, what form does that solicitation take?

A. Why, it has been very aggressive.

Q. What sort of claims or propositions do they make to you?

A. Why, sometimes in soliciting our business they have asked us to place with them possibly 500 or 1,000 tons, and in taking the matter up, they have finally asked us for a bid upon that material,—asked us what we would offer for it.

Q. They also quote you prices?

A. Yes, sir; quoted us prices, and when it has not appealed to us particularly, they have simply said, "Why, give us a bid on it."

Q. Now, have the prices that the American Steel & Wire Company has quoted to you always been lower than the other people?

A. No, sir.

Q. How much higher have they been at times?

A. At times it has been a dollar a ton higher.

Q. Has the Steel & Wire Company at times met the lower quotations made to you?

A. Why, yes, at some periods I have no doubt that they have met that price.

Q. That is, they have come down on their original offers?

A. No; I do not remember an instance where they have.

Q. But they have sold you at a price that was satisfactory to you, have they?

A. Entirely; yes, sir.

Q. Although not as low as you could obtain from others?

A. No, sir.

Q. Why is it that you have been willing to place your entire requirements with the American Steel & Wire Company, even when you could have secured a lower price from their competitors?

A. Because we have appreciated their ability to take care of us and to give us the service.

Q. How far ahead do you keep stock on hand?

A. During the rush season our stock would not last to exceed two weeks; our stock of fence.

Q. Then you have material coming right along, all the time?

A. Continuously. We anticipate our requirements, and have it shipped so many cars per week.

Q. During all these years from 1906 to the present time what has been the character of the service that has been given you by the American Steel & Wire Company?

A. It has been exceptional. Even during the rush seasons I do not recall any periods where we have been shut down on account of lack of material. We have been able to depend absolutely upon our requirements, which has allowed us to run continuously and economically, which is a big factor in the manufacture of fence.

Q. What saving, if any, do you make by carrying only a small stock, lasting you ten days or two weeks?

A. It does not necessitate tying up a large amount of money.

Q. How has the quality of wire furnished you by the American Steel & Wire Company compared from year to year?

A. It has been better; the quality has been better.

Q. It has been improving all the time, you mean?

A. It has been improving all the time.

Q. From what mills of the American Steel & Wire Company do you get your supply, as a rule?

A. The larger part of it from Joliet, although we have received materials from Waukegan, De Kalb and some from the Cleveland districts.

Q. Which way do you find the most regular train service?

A. From the Joliet mills.

Q. You are located on the Michigan Central, are you not?

A. Yes.

Q. And that makes connection with what line from Joliet?

A. The E. J. & E.

Q. Has the American Steel & Wire Company at any time sought in any way to interfere with the price at which you should sell your fence?

A. No, sir.

Q. Have you been in any agreement or understanding with the American Steel & Wire Company or these larger fence makers as to the price at which you should sell your fence?

A. No, sir.

Q. You have fixed your own price?

A. We have made our own price.

Q. Through what states do you distribute the Jackson fence?

A. Directly, Michigan, Indiana, Ohio, New York, Illinois, Wisconsin, Minnesota and part of Iowa. Through jobbers, the South, Southwest and the Middle West.

Q. What woven wire fence manufactured by the American

Steel & Wire Company is there that is in competition with yours? You spoke of some of it being sold in competition with yours. What is the trade name of their fence?

Q. Any other?

A. The American fence.

A. They have the Ellwood, the Royal and the National. Those are the principal types.

Q. Which has the largest sale of those?

A. The American.

Q. How does your fence sell in the market in comparison with the American fence? Which sells higher?

A. Our fence sells higher.

Q. About how much higher—giving the minimum and maximum range?

A. Varying from a cent and a half to two and two and a half cents a rod.

Q. How does your fence sell as compared with that of other fence manufacturers—outside people?

A. Outside of the American?

Q. Yes.

A. I believe our fence is the highest priced fence on the market.

Q. What other fences are there that are sold in competition with you that sell at prices, we will say, between the prices of the American and yours?

A. There would be the Peerless.

Q. Where is that made?

A. Adrian, Michigan; the Adrian Fence Company, of Adrian, Michigan; the Michigan Fence Company, of Adrian, Michigan; the Superior Fence Company, at Cleveland; the Frost Fence Company, of Cleveland; the Warsaw Fence Company, of Warsaw, Ohio; the Dwiggins Fence Company, at Anderson, Indiana. I think those are the principal ones.

Q. They would be in between in price, would they—between your prices and those of the American?

A. Those particular types of fence would be approximately the same as ours.

Q. About the same as yours?

A. Approximately the same as ours. There might be some variations.

Q. And are those different makes of fence sold throughout your territory?

A. Yes, sir.

Q. In competition with you and with the American?

A. In competition with ourselves and with the American.

Q. What about the fence made by the Youngstown Sheet & Tube Company?

A. They build a fence similar to our type; practically the same.

Q. And about how does that sell in comparison with yours?

A. At the present time that is selling about the same as ours.

Q. What about the Kokomo fence?

A. That type of fence sells about the same as the American.

Q. Is that a considerable company—the Kokomo Company?

A. I believe it is.

Q. You meet their fence in competition in your market do you not?

A. Oh, yes.

Q. Where does the Peerless Fence Company get its supply of wire?

A. It is my understanding that they buy——

MR. DICKINSON: I object to any hearsay.

THE WITNESS: They buy their entire requirements from J. & L.

By MR. SEVERANCE:

Q. That is, from Jones & Laughlin?

A. From Jones & Laughlin.

Q. Can you very briefly state the character of your fence, how it is made and how it differs from the American fence, for instance?

MR. DICKINSON: We object to that as irrelevant.

By MR. SEVERANCE:

Q. Proceed.

A. Our type of fence is what is known as square mesh staple-tie fence, made up of a continuous stay wire running from top to bottom, fastened at the intersection with a lock or tie. The American fence is what is known as the soft drawn twisted stay fence, having the stay in as many pieces as there are panels in the fence.

Q. What is the particular virtue that is claimed by you for your fence, and what is the particular claim made by the American Steel & Wire Company for the American fence, growing out of the differences in make?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: With our type of fence we consider that it will stand up better on the post and not sag or bag. The stays being continuous support it in an upright position. The American type of fence, with the soft drawn cut stay, has a tendency to sag or bag. They of course claim that with their construction there is an advantage in so far as with any pressure brought to bear upon the top or bottom the fence hinges at the joint and will come back to place.

By MR. SEVERANCE:

Q. Are there a number of different makes of fence of the general character of the American?

A. Yes.

Q. Who makes those fences?

A. The Youngstown Sheet & Tube Company, the Cambria Steel Company, the Kokomo Wire & Nail Company, the Dillon-Griswold Wire Company.

Q. Where are they located?

A. Sterling, Illinois. Jones & Laughlin started to put a product on the market similar to the American, but I do not know whether they have completed that or not.

Q. You mentioned among others the Michigan Wire Fence Company of Adrian?

A. Yes.

Q. Where do they get their wire?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: The Youngstown Sheet & Tube Company and the Pittsburgh Steel Company.

MR. DICKINSON: Just to avoid cross examination, I would like to know whether the witness is answering from hearsay on that. I do not want to go into cross examination on it.

By MR. SEVERANCE:

Q. Do you know where they get it?

A. The Michigan?

Q. Yes.

A. Yes, sir.

MR. DICKINSON: Let him say how he knows.

By MR. SEVERANCE:

Q. Mr. Dickinson wants to know how you know it, Mr. Carter.

A. Mr. Tobias, the manager of the company, told me so.

MR. DICKINSON: I object to his answer as hearsay and incompetent.

MR. SEVERANCE: Is that the source of your information?

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. To what class of persons do you and the other manufacturers of fence sell fence throughout this territory that you mention?

A. We sell to the hardware and implement trade.

Q. Do you sell the wholesalers or retailers or both?

A. We sell to both.

Q. In what way do you push the sale of your fence?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: We work directly through travelers.

By MR. SEVERANCE:

Q. Through traveling men?

A. Traveling men.

Q. And do you use any literature in pushing the sale of your fence?

A. Yes; we circularize the territory.

Q. How do these other fence manufacturers, including the American Steel & Wire Company, push their trade?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: Through travelers.

By MR. SEVERANCE:

Q. How is the competition between different manufacturers in this territory? Is it active or passive in character?

A. Very active.

MR. DICKINSON: What manufacturers do you mean; of fence or wire?

MR. SEVERANCE: Fence; that is what I am speaking about.

By MR. SEVERANCE:

Q. The thing you have to sell?

A. Yes, very active.

Q. And has it been during all the time you have been in the business?

A. Yes.

Q. I think I asked you before if there had been any price agreement among the manufacturers.

A. Yes, you did.

Q. And there has not been?

A. No.

MR. DICKINSON: I do not think he said there had not been; he said he had not been a party to them.

By MR. SEVERANCE:

Q. Have there ever been, so far as you know?

A. No.

MR. DICKINSON: You are not undertaking to answer except so far as you know, from your own knowledge?

THE WITNESS: No.

By MR. SEVERANCE:

Q. You have not been a party to any, and no such agreements have ever been brought to your knowledge, have they?

A. No, sir.

MR. SEVERANCE: That is all.

CROSS EXAMINATION.

By MR. DICKINSON:

Q. You spoke of getting quotations from the Pittsburgh Steel Company, the Youngstown Sheet & Tube Company, the Cambria Steel Company, Jones & Laughlin and the American Steel & Wire Company. Over what period did you mean to say that you had gotten quotations, when you made your purchases of wire, from those companies?

A. Ever since we have been in business, covering a period of approximately seven years.

Q. You say approximately seven years; I would like to know; you know how long you have been in business.

A. Well, we have been actually engaged in the manufacture of fence since the early part of 1906.

Q. So you mean to say, then, that since the early part of 1906 down to the present time is the period that you mean to cover by that statement?

A. Yes.

Q. You are confident of that, are you?

A. With one exception; the Cambria Steel Company have not been producing wire, I do not think, for that whole period.

Q. How long have they been producing?

A. They have been producing, I think, about three years.

Q. What kind of wire do you purchase, the sizes?

A. Sizes 7, 9, 10, 11, 13 and 14.

Q. Your relations have been very close with the American Steel & Wire Company, have they not, from the fact that you have been purchasing from them, and no one else, throughout the whole period of your operations?

A. Yes, sir.

Q. And you have bought from them, notwithstanding the fact that other people have quoted you a lower price at times?

A. Yes, sir.

Q. I suppose other manufacturers soon found out how closely you dealt with the American Steel & Wire Company, and the constancy of your dealings with them, did they not?

A. Yes, sir.

Q. Now, take the year 1908: do you recall now, as a mat-

ter of memory, what concerns you solicited for bids that year, and how often you solicited them?

A. No, I could not.

Q. Or the prices?

A. I do not remember.

Q. Well, it largely became a matter with you of just getting the kind of wire that you wanted, supplied in the way you wanted, and dealing continuously with one manufacturer, did it not?

A. Well, we considered the service largely in purchasing.

Q. And you never did break away from them?

A. No, sir; we bought our exclusive requirements from them.

Q. Is your fence a patented fence?

A. Yes, sir.

Q. And you claim superiority for that?

A. Yes, sir.

Q. There are other patented fences?

A. Yes, sir.

Q. And there are differences?

A. Yes.

Q. And while they may be used, some of them, for the same purpose, you have gotten a higher price, you say?

A. Yes, sir.

Q. That is, I suppose, because of the peculiar qualities of your fence, an appreciation that the purchaser has put upon it for those qualities?

A. Yes, sir.

Q. Now, take 1909: can you now state, as a matter of memory, that you recall getting quotations during that year, at the time that you were making purchases from the American Steel & Wire Company?

A. 1909?

Q. Yes.

A. I do not recall the exact market.

Q. Well, do you recall from whom you got bids in any year, other than the American Steel & Wire Company, and the times at which you got them, and how they varied?

A. Why, we were solicited continuously from those dif-

ferent concerns. I do not remember. I could not say the exact concerns.

Q. And you did not pay much attention to the solicitation?

A. Yes, sir.

Q. But you did not pay enough attention to it to break away from the American Steel & Wire Company?

A. Why, I did not consider it was to our interest to do so.

Q. Do you bear in mind at any particular time, or on any particular contract the difference in prices that were offered to you by any of these manufacturers, for any particular year?

A. At many periods I can remember distinctly the variation in quotations of a dollar a ton lower by some of the several concerns mentioned.

Q. Well, can you remember any such period for 1909, and, if so, what period was it, and who was it that quoted a dollar lower, and when was it?

A. I could not recall now.

Q. Can you give any such instance for 1910, 1911 or 1912?

A. Not on exact periods.

Q. Can you give any approximate period in either one of those years, and state who made the quotation, and about what time they made it, and on what quantity of wire?

A. I could not give you any exact dates on that.

Q. Can you give it approximately?

A. Why, I think it was during the years that you have mentioned, when we have received quotations of a dollar a ton less.

Q. Now, what year do you think that you remember, if you do remember, that you got a quotation of a dollar a ton less, and who made it?

A. Well, as I say, it has been during the entire period.

Q. Do you mean to say that throughout that time that you now remember that some of these other manufacturers bid a dollar less, and if so, who bid it and when was it, as near as you can recollect it?

A. Why, we received quotations from the Pittsburgh Steel Company, and from the Youngstown Sheet & Tube Company; from the J. & L., and from the Cambria, all of which I re-

member distinctly as being a dollar a ton less than we were paying.

Q. Now, what year? 1909? Do you remember that?

A. Why, during that period of 1909 and 1910 and 1911, and right through the entire period.

Q. They were always less, were they?

A. Yes.

Q. Than the American Steel & Wire Company?

A. Yes, sir.

Q. And they were a dollar less, were they?

A. A dollar less.

Q. All of them?

A. Why, that would vary somewhat; not all of them.

Q. But generally it was?

A. About a dollar a ton less.

Q. Throughout that time?

A. That we could buy of these other concerns.

Q. Yes. I mean throughout that time?

A. Yes.

Q. And notwithstanding that, you bought from the other company?

A. Yes, sir.

MR. DICKINSON: That is all.

MR. SEVERANCE: That is all, Mr. Carter.

MR. LINDABURY: Mr. Scobie.

WILLIAM H. SCOBIE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Scobie, where do you live?

A. Wyoming, Ohio, my residence; a suburb of Cincinnati.

Q. Are you connected with the Philip Carey Manufacturing Company?

A. I am.

Q. What relation do you sustain to that?

A. Purchasing agent.

Q. What is the business of that company?

A. The manufacture of roofing and pipe covering and asbestos products.

Q. How long have you been the purchasing agent of that company?

A. About seven years.

Q. Does that company purchase steel products?

A. It does.

Q. For use in its manufacturing business?

A. In connection with its manufactured material.

Q. For use in connection with it?

A. Yes, sir; for use in connection with it.

Q. What quantity of steel products does it annually use?

A. Approximately 25 cars.

Q. A year?

A. A year.

Q. That would be about how many tons?

A. In the neighborhood of 500 tons.

Q. What products are included in these purchases?

A. Sheets, nails and wire.

Q. What kind of wire?

A. Ordinary plain and galvanized wire; annealed wire, to a limited extent.

Q. Are the nails used the ordinary nail, or are they a special nail?

A. They are a special nail.

Q. For——

A. Applying roofing.

Q. Applying the asbestos roofing?

A. Not asbestos; the roofing. It is not an asbestos roofing; it is a composition roofing.

Q. Do you purchase any of your wire materials from the American Steel & Wire Company?

A. We do.

Q. And about what percentage of your requirements in the wire line are purchased from that company?

A. From two-thirds to three-quarters, approximately.

Q. And has that been the case ever since you have been the purchasing agent for your company, or has the amount increased or decreased?

A. That would be the general average; increasing in some years, and decreasing in others.

Q. Do you purchase from time to time for immediate consumption, or purchase on term contracts, or both?

A. Both.

Q. What percentage of your purchases are made on term contracts?

A. Speaking of the general line?

Q. I am speaking of wire now.

A. Wire?

Q. All wire products.

A. Including nails?

Q. Yes. I suppose they are bought together, are they not? Are the nails made by the same concerns who make the wire that you buy?

A. Yes; very largely.

Q. And they are bought usually together, are they?

A. No; the nails being the larger item, the wire being the smaller item——

Q. You may answer separately. Take nails, then: what percentage of the nails are bought on contract for future delivery—term contracts?

A. Three-quarters of the nails are bought on contract for future delivery.

Q. Now, what percentage of your wire is bought on contract for future delivery?

A. A small percentage.

Q. Do you obtain, before purchasing these wire products, quotations from different manufacturers?

MR. DICKINSON: Do you mean nails as well as wire?

MR. LINDABURY: Yes.

THE WITNESS: Yes.

By MR. LINDABURY:

Q. Is that true both of nails and wire?

A. Of both.

Q. And of both kinds of wire, plain and galvanized?

A. Both.

Q. Do you usually buy the two kinds of wire together?

A. Not necessarily. We do not, as a rule.

Q. They are manufactured by the same people ordinarily, are they not?

A. Yes.

Q. From how many concerns do you invite quotations when you are in the market for the purchase of wire goods, including nails?

A. From four to six concerns.

Q. Will you name them?

A. Jones & Laughlin, the Youngstown Sheet & Tube Company, the Cambria and the American Steel & Wire Company.

Q. Has that been the practice of your company during the whole time you have been its purchasing agent?

A. To invite competition from all manufacturers.

Q. And from about that number?

A. Yes.

Q. Have you invited competition from the same concerns during this whole period of years, or do they vary sometimes?

A. Varying only when we know them to be manufacturing or not manufacturing the particular material we are interested in.

Q. Who makes these special nails? Do all these concerns make them or only some of them?

A. The concerns that I have named are manufacturers of the special nails.

Q. They all make them?

A. They all make them.

Q. Do they all make wire also?

A. I think they do.

Q. Plain and galvanized?

A. I think they do.

Q. Do the quotations that you receive on nails vary or are they uniform?

A. They vary.

Q. Do two of them ever quote the same price?

A. Not as a rule.

Q. And if two of them do quote the same price at one time, do they ordinarily agree on the next quotation—the same two, I mean?

A. No, that would not be true.

Q. Is the highest bidder at one time ever the lowest bidder at another time?

A. I think truthfully I can say that they are.

Q. And the lowest at one time is sometimes the highest at another time?

A. That is my recollection.

Q. Do you remember any occasion when all of them have quoted the same price?

A. I do not.

Q. Have you tried to think whether that has ever occurred or not?

A. I am speaking from memory, and I still make the same answer, that I do not recall when they have all been the same price.

Q. Do you remember when more than two of them have quoted the same price?

A. My recollection is that it is a common experience. I cannot recall any particular time, but I am making the general statement that there is a variation.

Q. I think you did not quite catch the question. You have testified that at times the quotations of two would agree?

A. Yes.

Q. Now I ask you if you recall any time when the quotations of as many as three have agreed?

A. I certainly did not understand the question. I do not.

Q. You do not recall when any more than two ever agreed?

A. No.

Q. I believe I limited that question to nails. What would be your answer to similar inquiries with respect to wire, plain or galvanized?

A. I might add that our consumption of wire is so small that the same thing holds true, although probably not from the same sources.

Q. Have the quotations for whatever you have bought varied as to wire?

A. They have.

Q. And about the same as you have told us with regard to nails?

A. The same variation.

Q. You also buy sheets?

A. Yes.

Q. Do you buy those on a competitive basis?

A. We do.

Q. Do you invite quotations?

A. We do.

Q. From whom?

A. From the American Sheet & Tin Plate Company, Jones & Laughlin and the Youngstown Sheet & Tube Company.

Q. Do you ever buy or obtain quotations from the Coatesville manufacturers, Lukens and—who is the other? Worth?

MR. COLTON: Worth. They manufacture plates, though.

THE WITNESS: Plates, yes.

By MR. LINDABURY:

Q. The plate is a large sheet, is it not?

A. A thick sheet.

Q. Do they not manufacture sheets also as well as plates?

A. I do not know that they manufacture the very light gauges, such as we are interested in.

Q. Mr. Colton knows, and he says they do not.

A. I do not think they do.

Q. Have the quotations that you obtained on sheets from the concerns that you named been uniform or variant?

A. There has been a variation in price between a high bidder and a low bidder.

Q. Has that variation been considerable, or, I ought to say, substantial?

A. Substantial. We consider it so.

Q. Have there been times when the bids of any two of them would agree?

A. I think there have. It is my recollection that there have been such times.

Q. Has that been frequent or infrequent?

A. Frequent, probably.

Q. Do you remember any occasion when the bids of more than two agreed?

A. I do not, for the reason that there has been a variation with a limited number of competitors, in our case.

Q. Do you remember any occasion when the bids of any two bidders agreed two times in succession?

A. I don't remember such.

Q. Has it been the rule that the low bidder at one time continued to be the low bidder on successive biddings, or was the low one at one time the high one at another, and vice versa?

A. I think there has been uniformity as to high and low bidders.

Q. What is your recollection as to whether or not a concern bidding low at one time bid higher or highest at some other time?

A. Bidding low and being high or highest at another time?

Q. Yes.

A. My recollection is that that has occurred.

Q. Has there been any concern bidding on those sheets whose bids were uniformly high or uniformly low, or uniformly between the high and the low?

A. I do not recall that any bidder has placed himself in that position.

Q. Now, do your answers with regard to these sheet quotations cover the whole period that you have been purchasing agent of the company?

A. Well, the sheet quotations only cover a period of three years.

Q. Why?

A. Because we have only been using them that length of time.

Q. Has there been active competition for your trade among the different manufacturers that you have named, during the whole period that you have been purchasing agent, with respect to the wire products you have named?

A. Yes, the competition has been, I should consider, active; there has been an eagerness to secure the business.

Q. How has it been with regard to sheets during the time you have been purchasing them?

A. The same is true.

Q. You went with this company seven years ago; that would be 1906?

A. 1906 or 1907, I guess it is.

Q. Do you remember which year it was?

A. I do not distinctly; I made the statement that it was seven years ago, which I think is correct.

Q. Well, that might be 1906 or 1907; that is, the end of one or the beginning of the other?

A. Yes; it was the close of 1906, as I recall, seven years ago.

Q. What was your employment before you went with this company?

A. I was assistant purchasing agent of the Big Four Railway.

Q. For how long a time?

A. For at least seven years prior to my engagement with this concern.

Q. What is the Big Four Railroad?

A. The Big Four is the Cleveland, Cincinnati, Chicago & St. Louis, a line extending from Cleveland west to Cincinnati.

Q. How many miles of trackage has it?

A. My recollection is, something like 2,500, when I was with it, and I suppose it is now about the same.

Q. Did you, when in that position, have to do with the purchases of supplies for that railroad?

A. I did.

Q. What of their steel supplies were purchased through your department?

A. The general line of steel supplies, outside of what might be considered the very heavy end, such as rails and bridges.

Q. That is, you are excepting them?

A. I am excepting them; the general line except the heavy end.

Q. Consisting of rails and bridges?

A. Yes.

Q. Well, tell us what were included in that line of purchases.

A. On the steel and iron lines, such items as——

MR. DICKINSON: Do you want to go into iron?

THE WITNESS: Well, steel; bolts, nuts, bars, plates and tubes; they are probably the principal items.

By MR. LINDABURY:

Q. About what tonnage was annually purchased through your department?

A. That tonnage was substantial; I should say it approximated 50,000 tons per year.

Q. Was that 50,000 tons made up entirely of the steel articles you have named, or were there other articles included?

A. There were other articles included.

Q. You might name some others, if you think of them.

A. Well, forgings; that I recall as being part of that substantial tonnage.

Q. Without regard to the articles you named, I understand your estimate to be 50,000 tons per year of steel products?

A. That is my estimate; purely an estimate.

Q. That is what I understand. You have no figures?

A. No; none whatever.

Q. And it is a matter of memory with you?

A. Memory.

Q. Now, in practice, how do you go about making those purchases?

A. We invite bids from all manufacturers in the particular lines, especially those within a reasonable radius of consuming points.

Q. Now, to take up the different articles; you mentioned plates, did you not?

A. Plates.

Q. From whom did you invite quotations on plates, as you recall?

A. My recollection is to the effect that we invited competition from Otis and from Carnegie and from Worth. Those I know.

Q. Was it your practice to limit your invitations to some selected number of manufacturers, or did you ordinarily include all the larger manufacturers?

A. We included all the larger reliable manufacturers that we were aware of.

Q. And is that true not only of plates, but of the other articles you mentioned?

A. It is.

Q. I think you mentioned bars as one of the articles you purchased, did you?

A. Bars, yes, sir.

Q. From whom did you invite quotations on bars?

A. We invited quotations—you are referring to manufacturers or jobbers?

Q. Well, to both.

A. To either?

Q. Yes, either. Whoever you invited quotations from.

A. Some of the names are not clearly in mind; one, principally, was a New Albany concern; the Carnegie Steel Company, Bourne-Fuller Company; the Globe Rolling Mill Company; the Bassett-Pressley Company, of Cleveland; I do not know whether they are in existence now; they were at that time.

Q. Did you invite quotations from Cambria?

A. I do not remember distinctly as to that.

Q. From Jones & Laughlin?

A. Yes; Jones & Laughlin.

Q. What about tubes? From whom did you invite quotations on tubes?

A. On tubes, from the National Tube, from Tyler, from Syracuse. I am going back into an experience I have almost forgotten. Those three, substantially.

Q. How did you ask for these quotations? Did you make out specifications and send them around?

A. We had standard specifications. You are speaking on tubes or on all this material?

Q. On all this material.

A. Standard specifications on all of these items. If not all,

I know that on bars and on tubes and on plates there were specifications.

Q. You also spoke of bolts and nuts. I suppose you bought a great many bolts and nuts?

A. Bolts and nuts are a heavy item.

Q. I imagine—I do not know anything about it, but I conjecture a railroad would need a great many bolts and nuts.

A. Yes.

Q. From whom did you get quotations on bolts and nuts?

A. From the Lake Erie Iron Company.

Q. Where are they? At Cleveland?

A. At Cleveland.

Q. I thought they must be.

MR. DICKINSON: You are speaking now altogether of steel, are you not?

MR. LINDABURY: Yes, of steel.

THE WITNESS: The Upson Nut Company, of Cleveland; the American Iron & Steel Company, at Lebanon, if I recall, is the correct concern. The Pattison Supply Company, of Cleveland.

By MR. LINDABURY:

Q. That is all you think of now, is it?

A. That is all I can recollect definitely.

Q. Did these specification sheets that you prepared and sent out, ordinarily contain a number of items in the way of different sizes or different shapes or differences in some other respects?

A. The specification sheets were separate and distinct, one sheet covering one class of material only.

Q. Well, did the sheets contain several items?

A. Well, will you allow me to illustrate?

Q. Yes. You may.

A. We will say, on boiler tubes our requirements were boiler tubes as per specification No. 1, if it happened to be specification No. 1. Understand that all these manufacturers were perfectly familiar with our sizes, and with our approximate requirements; they did not specify specifically in the majority of instances the amount.

Q. But I was wondering whether or not your specifications required separate bids on separate items; if they were itemized in any cases?

A. If we required separate bids on separate items?

Q. Of the same specification, yes, so that a concern invited to make quotations would be required to quote on several different articles separately.

A. We preferred for convenience sake to handle it separately.

Q. You mean by separate specifications?

A. By Separate specifications and on separate sheets.

Q. Well, then, did you sometimes send a number of different specifications out at the same time to the same manufacturer?

A. Yes.

Q. Now, did the quotations received in response to these invitations ordinarily agree or disagree; that is, were they ordinarily uniform or non-uniform?

A. They were not uniform, as a rule.

Q. Did it ever occur that two of them would be uniform?

A. Yes; I believe it has occurred.

Q. Do you remember it having occurred more than once; that is, that the same two would be uniform twice in succession, or more times?

A. Well, that is a difficult thing to remember; that is, the sameness of the propositions.

Q. Do you remember whether there was any concern uniformly high or uniformly low in their quotations?

A. No, I do not remember.

Q. Do you remember whether or not in some instances concerns bidding low at one time would bid high at another time, so there would be that interchange of positions in the matter of bidding?

A. I don't remember that there was uniformity in that respect.

Q. Do you remember that more than two concerns ever quoted at any particular time the same price? You have said that some times there doubtless were two whose quotations

agreed. Do you remember any occasion when more than two agreed?

A. I should say, judging from my recollection, that there was a difference in price, as a rule; that in a limited number of bidders there was not the uniformity of three out of a possible four or five.

Q. Are you able to recall any occasion when as many as three quoted the same price?

A. I am not.

Q. If a thing of that kind occurred, would you say it was usual or unusual?

MR. DICKINSON: I object to that because the witness has not said whether it did or did not occur. He has not stated that he remembers anything about it.

THE WITNESS: Really, I was so busy I would not think very much about it.

By MR. LINDABURY:

Q. Did this ordinary variation in quotations obtain in all the lines that you have referred to in which you were making purchases?

A. That is my distinct recollection.

Q. And that includes nuts?

A. Nuts and bolts.

Q. Tubes?

A. Tubes.

Q. Plates?

A. Plates.

Q. Bars?

A. Bars.

Q. Anything else? I do not recall, now, what else you mentioned?

A. I included forgings.

Q. And forgings, yes. Was or not, during the period from 1904 to the time that you severed your connection with the purchasing department of the Big Four, competition active in these various lines in which you were making purchases?

A. My recollection is that it was active.

Q. How was that activity manifested?

A. By the activity of the seller—his constant presence before the buyer.

Q. How did you receive your quotations in answer to the invitations that you sent out; always by mail?

A. Not always by mail. By mail and by personal solicitation.

Q. Was the latter method frequent?

A. It was not uncommon.

Q. How were those quotations presented?

A. They were frequently presented verbally and confirmed.

Q. When were they presented with respect to the time when the invitations were asked for?

A. When were they presented with respect to what?

Q. With respect to the time when you asked them to send in their bids.

A. Do you mean by that, was there an immediate response?

Q. Did they bring them in at the time that bids were invited, or before or after?

A. As a rule, not until after the bids were invited.

Q. I did not mean after they were sent out, but after the time fixed for presenting them. When did they bring them, with respect to the time fixed for presenting the bids?

A. Within a reasonable time after bids were requested. No time was fixed in soliciting the invitations.

Q. I see. I am anxious to find out what activity there was connected with the presentation or making of these bids after your invitation?

A. Yes. Some bids would be replied to immediately by letter; others were slow in coming in. Others would be followed up by personal visits of the manufacturer or his representative.

Q. Were different prices ever offered from those first quoted? That is, were bids ever changed for the purpose of getting the business?

A. They were.

Q. Was that infrequent?

A. It was not.

Q. Did you ever negotiate for a better price than the quoted price?

A. We did.

Q. With whom? With a selected one or many of them?

A. Depending on circumstances.

Q. Such as what—for an example?

A. As conditions which we might know prevailed at the time with regard to business, the eagerness with which others sought the business.

Q. Was that eagerness very manifest during considerable portions of the time?

MR. DICKINSON: What time do you mean, now?

MR. LINDABURY: The period between 1904 and the time he ceased his connection with the purchasing department of the Big Four.

MR. DICKINSON: And all this applies to the Big Four?

MR. LINDABURY: Oh, yes; entirely.

MR. DICKINSON: Well, I did not know.

MR. LINDABURY: I passed by the Phillips concern some time ago.

(By request of the witness the stenographer repeated the pending question as follows:)

“Q. Was that eagerness very manifest during considerable portions of the time?”

THE WITNESS: It was.

By MR. LINDABURY:

Q. How did the activity among the makers or the competition among them for the sale of their products to the Big Four, whilst you were there, compare with the activity or competition that has existed for the trade of the Philip Carey Manufacturing Company since you have been with the latter company?

MR. DICKINSON: I object to that as irrelevant.

By MR. LINDABURY:

Q. Which was the more strenuous?

A. The competition for the railroad business was more strenuous.

Q. How do you account for that?

A. The volume, I presume, would account for it. That has always been my understanding.

Q. What do you mean by that?

A. I mean the larger tonnage of business, the larger volume is with the railroad over the present concern that I am connected with.

Q. That excited keener competition?

A. That excited keener competition.

Q. Was there any time between the end of 1904 and when you left the Big Four that competition between the manufacturers in the lines of steel production that you were purchasing was not keen and active?

A. Do I recall when such a condition did not exist?

Q. That is the same thing, yes: when competition was not keen and active?

A. I do not.

Q. And did or not that activity take the form of varying quotations as to prices?

A. It did.

CROSS EXAMINATION

By MR. DICKINSON:

Q. With regard to your purchases for the Big Four and your testimony as to competition in prices, what period does your memory cover embracing the facts as to which you have testified?

A. Oh, the period of five years prior to 1906 or 1907. If October, 1906, is seven years, a period of five years prior to that.

Q. That would be about 1902?

A. Something like that.

Q. Since you left the Big Four you have been actively engaged in other business, have you?

A. I have.

Q. Have you had any occasion since that time to go over and call to memory the particular facts and details as to what transpired while you were purchasing agent for the Big Four?

A. What do you mean by that?

Q. I mean to say that you had no special reason to recall those incidents before to-day.

A. Before to-day?

Q. Yes.

A. Yes, sir.

Q. When?

A. When testimony was solicited.

Q. How long ago was that?

A. In the past month.

Q. Up to that time you had no special reason, had you, to recur to those facts and incidents?

A. No, sir.

Q. You have had a great many transactions, I presume, since then?

A. Many.

Q. Do you undertake to say—take the year 1902—that you have a distinct recollection of particular transactions, or have you only been speaking in a general way from general impression?

A. No, not a distinct recollection as to an exact date, but in a general way.

Q. For instance, taking the year 1902, do you carry in your mind the transactions at that time, and the particular bids at that time on any transactions, who made the bids, what the bids were and what the variations of them were?

A. I do not, speaking generally; answering generally your whole question.

Q. How about 1903, 1904, 1905 and 1906?

A. I could make no distinct statement with reference to any year.

Q. Could you make any statement as to prices for any of those years, and as to how they varied, and at what periods in those years they varied, or what the prices on any particular commodity were?

A. I could only make a general statement.

Q. A general statement to the effect that you have a general impression that there were varying prices?

A. General knowledge.

Q. And you do not carry in your mind what they were?

A. No, sir.

Q. Or how they varied?

A. No, sir.

Q. Or who made them?

A. Who made them, I remember.

Q. But I mean the particular ones that varied from each other.

A. No.

Q. Take plates; what kind of plates did you buy in 1902, 1903 and 1904?

A. Boiler plates, on our own specification.

Q. Any other kind except boiler plate?

A. Boiler plate and sheets. We stipulate that below a certain number.

Q. Let us confine ourselves to what are known as plates. There is a difference, is there not, between what are designated as sheets and what are known as plates?

A. Yes; I have forgotten what the dividing line is as to number, but we bought both.

Q. Did you buy tank plates, do you remember that you bought tank plates?

A. Yes.

Q. Do you know as to 1902, 1903, and 1904, the tonnage of boiler plates you bought?

A. The exact tonnage; no, sir.

Q. Can you approximate it?

A. I could not approximate it.

Q. You do not carry in your memory those figures, do you?

A. No.

Q. Do you know from whom you made purchases? That is to say, do you recall any particular transaction in the purchase of boiler plates in 1902, 1903 and 1904?

A. Answering the first part of your question, we purchased from Otis and from Carnegie in those periods, I am positive.

Q. Did you purchase from them in all those years, or sometimes from one and sometimes from others, and do you know whom you purchased from in 1903?

A. No.

Q. You could not state that?

A. No.

Q. And you could not state as to 1902 and 1904, could you?

A. I could not.

Q. Bringing it right down to the time that you quit the Big Four, could you state it as to any of those years?

A. I could not state it with definiteness as to any one year. Are you asking under the impression that those were yearly contracts?

Q. No; I am just asking if you recall as a distinct recollection that you bought from any particular concern?

A. We bought from all those concerns.

Q. That is, that you bought variously during those years from all those concerns, but I understand you, if I am correct, that you do not know what particular ones you bought from in any particular years.

A. Well, we bought from all of them over that period.

Q. Yes, but I understood from your former answers that you could not state for any particular year which one of those you bought from.

A. I see.

Q. Is that correct?

A. I could not state with definiteness as to any particular month in any particular year. My recollection is that we bought from all of them in the period of years that you are referring to.

Q. Yes, but you do not say that you bought from all of them for each one of those years?

A. Yes; that is my answer.

Q. Oh, that is your answer?

A. Yes; that is my answer, that we bought from all of these concerns, if my recollection serves me correctly.

Q. For each one of those years?

A. For each one of those years.

Q. I did not understand you that way.

A. Maybe you will get a little clearer idea if I tell you that we solicited monthly bids on these materials.

Q. Well, did you buy from everyone of them every month?

A. No, sir. You see, you are classifying it by years, while——

Q. (Interposing) I will take it up by months. You solicited monthly bids from those concerns. Some you bought from on those solicitations, and some you did not. That would continue throughout a year, would it—those solicitations?

A. The solicitations would continue; it was a continuous process.

Q. Do you know now, and can you state that you remember that in 1902 you bought from each one of those concerns?

A. Not with definiteness.

Q. Well, how about 1903?

A. No.

Q. And how down to the time that you left the Big Four?

A. No.

Q. Do you recall and carry in your mind for any one of those years the fact that some of them bid the same and then that those same two at another time bid differently? Do you carry any distinct recollection of any particular event of that sort? If so, just state what time it was and what contract it was.

A. I could not state with reference to a definite time or contract.

Q. Well, is not really what you meant to say that you did not remember any particular time when that was so or was not so?

A. I meant to state that it was the general practice, according to my recollection.

Q. What was the general practice?

A. For this variation to occur.

Q. What do you mean by "variation"? Do you mean by that that what you call a variation was when there would be some one or more out of a number of bidders that would be different from the others?

A. That it would be the practice for there to be a difference among all bidders.

Q. Do you mean to say that each would differ from all the others, or that some one would differ from the others? Would that be a variation, in your mind, or——

A. (Interposing) That if one varied from all the others?

Q. Yes.

A. No; it is when the majority would vary.

Q. Can you state any time in 1902 that you now recall that a majority of them varied from each other?

A. No definite time could I state.

Q. Well, have you any recollection about the question of those bids and the variation of bids, and whether two or more at one time bid the same, and the same two at another time would not bid the same? Do you carry any of those incidents in your mind?

A. That is the general impression that I have in my mind.

Q. Yes, but you cannot give any instance, one way or the other, can you, when they did or did not?

A. No single instance.

Q. Do you not know, as a matter of fact, that during 1902, 1903 and 1904, the bidders on tank plate were generally uniform?

A. I do not believe I do, Judge.

Q. Do you not know that on plates, down to some time in 1905—from 1902 down to 1905, the manufacturers when solicited generally bid a uniform price?

A. On plates?

Q. Yes.

A. That is not my recollection.

Q. You do not recollect one way or the other, then?

A. I do recall that there was a variation in the bids, generally speaking.

Q. What incident now do you carry in your mind that you say you do recall? What year was it? I am speaking of plates now.

A. I have not any particular instance of a year that I recall.

Q. You were asked if you remembered any occasion when more than two agreed, and I understood you to say that you did not. You do not carry in your mind any occasions where

you can now, in your mind, from memory, compare the prices that were given on any particular occasion, do you?

A. I am stating, of course, my general recollection of the period.

Q. Yes, and you said you did not remember any such occasion. You did not mean to say, did you, that there was no such occasion, but only that you do not remember it?

A. I do not remember when there was such an occasion.

Q. But you do not mean to state that there was not such an occasion?

A. I do not mean to state that there was positively no such an occasion.

Q. Now, take 1902 on plates; what companies do you now recall that you solicited for bids in that year?

A. On plates, in 1902, I could only repeat my testimony; such people as Otis. You are asking for the names, are you?

Q. I am asking those that you now remember that you got bids from that year, if you do remember.

MR. LINDABURY: I object to this testimony, as the direct examination was limited to the period since 1904. If, therefore, this inquiry is pursued, the testimony will be that of the other side.

MR. DICKINSON: Well, I know that later on you put a limitation at 1904, but I think before that you did not put that limitation on it.

MR. COLTON: His first testimony was on the whole thing, I think, Mr. Lindabury.

MR. DICKINSON: Yes; his first testimony was on the whole thing.

MR. LINDABURY: I am quite sure it was not, but my objection will go down.

MR. DICKINSON: Because just as soon as you put 1904 as the limit I made a memorandum of that, and up to that time I understood it to be general.

MR. LINDABURY: I do not think I had asked the question before on the line that you are now pursuing. You may take the testimony, however; I do not care, so long as it is not cross examination. It is your evidence.

MR. DICKINSON: I think it stands against us unless I do examine on it. Of course, I have not the time to go over it now. Read the question.

(The pending question was read by the stenographer.)

MR. DICKINSON: Now, answer that.

THE WITNESS: My recollection is Otis, Worth, Carnegie. At least that number.

By MR. DICKINSON:

Q. Do you recall that in your memory, or are you just speaking from a general impression that during that time, or during that period of years, you did solicit these people?

A. I am recalling it from memory, that during that period of time we solicited from these people.

Q. Do you remember, as a matter of fact, that they made you quotations during 1902, all of them?

A. I do not.

Q. Could you state for 1903 who made you quotations?

A. I could not.

Q. Could you state for any of those years?

A. I could not.

Q. Do you recall whether or not, during the period from 1904 up, in your soliciting bids on these various things that you bought for the Big Four, several of the quotations or the competitive bids, the first quotations given, were alike?

A. I do not.

Q. You do not recall, now, one way or the other about that, do you?

A. I do not recall that they were all alike.

Q. Do you recall that they were not all alike?

A. Definitely, no.

Q. You did not buy the rails or bridges?

A. No.

Q. Who bought those? Somebody higher up bought those, did they not?

A. Some one higher up.

Q. You spoke of purchasing bars while you were with the Big Four. Were some of these iron and some steel?

A. There were some iron and some steel.

Q. What proportion were iron?

A. I could not state with definiteness.

Q. Which was the larger—iron or steel?

A. I should think that it was about evenly divided.

Q. Now, 1904: can you now recall from whom you got bids? I do not mean from whom you solicited bids, but from whom you actually got bids on steel bars?

A. In 1904?

Q. Yes.

A. The Bourne-Fuller Company and the Globe Rolling Mill Company and the Carnegie Steel Company. Some others; I do not recall more.

Q. Do you recall, as a matter of fact, and can you state as a matter of fact, that you got bids in 1904 from each of those companies?

A. From recollection I state that we did.

Q. How about 1905?

A. I should say the same thing applied.

Q. As to those three companies?

A. At least.

Q. If you remember anybody else for 1905, just state whom you remember.

A. No others.

Q. You can not remember any others?

A. I can not recall.

Q. For 1905?

A. No.

Q. Take 1906: whom do you remember you got bids from in 1906?

A. That list.

Q. And 1907?

A. In 1907 I was not with the railroad.

Q. All your testimony with regard to the railroad, then, is as to the period anterior to the beginning of 1907, is it?

A. To the beginning of 1907, yes.

Q. And the period anterior to that?

A. Yes.

Q. Take the year 1905: what percentage in bars did you

give to the Carnegie Company and the Bourne-Fuller Company, and what to any other company or companies?

A. I could not give you an approximate estimate.

Q. Could you for 1906?

A. No.

Q. Could you for any of the years?

A. For no year.

Q. Could you as to plates, or any of these other things you bought while you were with the Big Four?

A. I could not.

Q. Coming to your present company: you say you bought sheets?

A. Yes.

Q. When was the first year you bought sheets?

A. 1911.

Q. I believe you have only bought sheets for three years. What tonnage did you buy in 1911?

A. 200 or 300 tons.

Q. In what part of the year; the first or the latter part?

A. Covering the major portion of the year.

Q. And from whom did you buy in 1911?

A. From the American Sheet & Tin Plate Company, from Jones & Laughlin, from the Wheeling Steel & Iron Company.

Q. That is all?

A. Yes.

Q. Was your tonnage divided among those three for that year?

A. There was a division of the tonnage. I could not even approximate now what it was.

Q. You have no idea what it was?

A. No.

Q. Was that a written contract for any of that?

A. Simply a definite order.

Q. Simply a definite order, made at various times through the year?

A. Made at various times, yes.

Q. And in large or comparatively small quantities?

A. Comparatively small quantities.

Q. How many orders, as near as you can give it, covered the purchases for 1911?

A. Probably three.

Q. Well, now, do you remember on any of those orders what the price was at which you awarded the contract?

A. I do not.

Q. Do you remember what the bids were?

A. I do not.

Q. Do you remember who bid on those orders, or any particular order?

A. My recollection is that all three firms bid on the business.

Q. Now, do you say that you do recall that all three bid on each one of the orders for 1911?

A. No, I do not recall that all of them bid on each one of the orders.

Q. But all of them bid at some time during 1911?

A. Yes.

Q. But you cannot tell which ones bid on any respective order?

A. Not any respective order.

Q. Take 1912: what tonnage did you buy in sheets?

A. Approximately the same tonnage.

Q. How was that bought?

A. That business was divided.

Q. Between what companies?

A. Between Jones & Laughlin and the American Sheet & Tin Plate Company.

Q. And Wheeling?

A. That is my recollection.

Q. Would the same answers be given if the same questions were asked in regard to 1912 that I asked as to 1911, as to quotations and bids?

A. With reference to the definiteness?

Q. Yes.

A. They would.

Q. Now, take 1913: what tonnage have you bought in sheets?

A. Approximately the same tonnage.

Q. From the same people?

A. The Youngstown Sheet & Tube Company included.

Q. That would be four, then, for 1913?

A. Yes.

Q. What tonnage have you bought in 1913 from the American Sheet & Tin Plate Company?

A. Probably 50 tons.

Q. Out of a total of what?

A. 200 to 250 tons.

Q. You do not know whether it is 200 or 250?

A. No, I do not definitely; I think that range would cover it.

Q. How many purchases have you made in 1913?

A. I believe we have made three purchases in 1913.

Q. You made four contracts, didn't you say?

A. No, I did not say we made four contracts.

Q. I misunderstood you; I thought you said the American Sheet & Tin Plate Company, Jones & Laughlin, the Youngstown and Wheeling.

A. You were asking for bidders.

Q. No; how many purchases have you made?

A. I think three purchases would cover it. I referred in the other answer to the bidders.

Q. Were they all made at various times?

A. Various times.

Q. Taking these various purchases, can you give now what bids were made and who made them on each of those particular purchases or on any of them?

A. Well, I remember with distinctness the Youngtown Sheet & Tube Company, the American Sheet & Tin Plate Company and Jones & Laughlin.

Q. Do you mean to say that you remember that they bid?

A. I remember that they bid.

Q. But I am asking now did they all bid on each one of those purchases, or some on one and some on another?

A. My recollection is they all bid on the purchases.

Q. Can you give the bids made by them for each one of those purchases?

A. I cannot.

Q. Have you any recollection of the prices?

A. Of the price, I have.

Q. Or how they varied from each other?

A. I have not.

Q. That is 1913 you are speaking of now?

A. This year.

Q. You stated, as I understood you, that you remembered no occasion when bids agreed two times in succession. You mean, then, that you do not carry in your mind any particular occasion when they agreed; is that so?

A. When there were two bids alike in succession?

Q. Yes.

A. That is my recollection.

Q. Do you mean to say by that that there was no such occasion, or simply that you cannot recall any such occasion?

A. That I cannot recall.

Q. And that is all you mean to say on that; is that correct?

A. That is correct.

Q. You were asked if you remembered any occasion when the bids of more than two agreed, and I understood you to say that you did not recall any such occasion. You mean by that that you do not remember any particular occasion when they agreed?

A. I do not remember any particular occasion.

Q. Do you mean to say that there was no such occasion?

A. To the best of my recollection there was not.

Q. You have said that you do not recall any; do you recall that there was no such occasion?

A. Recall when there was no such occasion? Will you state that question again.

Q. Do you mean to say that you carry in your mind bids throughout that period, so as to enable you to say that there was no time when more than two agreed?

A. Speaking from general recollection, that is my testimony.

Q. That was in respect to sheets. Take the year that you first began with sheets; can you give any occasion there where you could name all the bidders and the prices?

A. I cannot.

Q. Can you name any occasion since you bought sheets where you can give all the bidders and the prices?

A. I cannot.

Q. Can you name any occasion when you bought sheets when you can give the prices of any of the bidders?

A. I cannot.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WILLIAM H. SCOBIE,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION (Continued)

By MR. DICKINSON:

Q. You stated, I believe, that you got two-thirds to three-quarters of your wire throughout that period, on a general average, from the American Steel & Wire Company. Now, what proportion of nails did you get throughout the period from 1907 up, or within the last seven years?

A. I understood we classed nails and wire products——

Q. (Interposing) So that answer covered both?

A. Yes, sir.

Q. Now, take the first year that you bought nails; from whom did you obtain quotations that year?

A. I cannot say, for the reason that all these concerns were not making them over that period.

Q. Did you obtain any from the American Steel & Wire Company in that year?

A. I think we did.

Q. Can you name any other that you know you obtained from that year?

A. I cannot with definiteness.

Q. Can you state anything definitely as to what quotations you have obtained on any particular occasion, what the variations were, if any, and what relation they bore to each other?

A. When?

Q. The first year you bought.

A. No.

Q. Take the next year; that would be six years ago. From whom did you obtain quotations on nails?

A. I cannot answer, for the same reason.

Q. From whom did you buy in that year?

A. That I cannot answer.

Q. Did you buy any that year from the American Steel & Wire Company?

A. I cannot say.

Q. Have you any recollection as to what the prices were, or the variations in prices, or the quotations that were made to you?

A. I have not a distinct recollection of the variation.

Q. Nor their relation to each other?

A. Nor their relation to each other.

Q. Take four years ago; would your answers be the same to the same questions?

A. The same.

Q. The same five years ago?

A. The same answer.

Q. It would be the same or not, would it, throughout the whole period that you have been buying nails?

A. No.

Q. What year can you give where you remember from whom you bought and what prices you bought at, and what quotations on particular purchases you got? Just name the year, if you can.

A. The present year, as an illustration.

Q. Is that the only year?

A. That I have a recollection of a part of your question.

Q. Now, what part?

A. From whom we bought.

Q. In any other year do you remember the prices at which you bought?

A. No.

Q. Do you remember the quotations that you got?

A. No.

Q. Or their relations to each other?

A. No.

Q. Would the answers be the same for all those years to the same class of questions in respect to wire?

A. Well, our wire consumption is very small—the wire products end.

Q. I want to know how it would be with respect to wire.

A. Over the same period?

Q. The same answers to the same questions?

A. That no definite answer could be given as to prices.

Q. And you cannot state for any year with whom you made contracts and the amounts you obtained, other than the present year?

A. Not other than the present year, with definiteness.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Scobie, with regard to your experience when in the purchasing department of the Big Four, Judge Dickinson has asked you about your recollection, and you have stated that you were interviewed by counsel for the defense on the subject. How long ago was that?

MR. DICKINSON: He said a month.

THE WITNESS: Within thirty days, I believe.

By MR. LINDABURY:

Q. And has that led you to try and recall, so far as you are able to, the circumstances inquired about?

A. I have not made any specific effort to recall.

Q. I know, but have you had it in mind that you were to testify on the subject, so far as your recollection would serve you?

A. Yes; I have had in mind that that would undoubtedly come up.

Q. And have you also been consulted with regard to your testimony by a representative of the Government since that time?

A. I have.

Q. How long ago was that?

A. About ten days ago.

Q. So that you knew that both sides desired you to tell what you could remember?

MR. DICKINSON: Now, about the Big Four, I do not think anybody on our side talked to him about that, and I do not think we heard of it until you began to examine him.

MR. LINDABURY: I said about his testimony. Of course, I do not know anything about what the Government's representative asked him.

By MR. LINDABURY:

Q. Now, with regard to the variation in quotations made by the different steel manufacturers, while you were receiving them for the Big Four, you made some statement with respect to your want of recollection as to the quotations and their variation or uniformity at a given time. Have you, let me ask, a definite recollection as to whether or not they were all of them ever the same? Do you recollect definitely, without regard to dates or occasions, as to whether or not they were ever at any time all alike?

A. My recollection is that they were not all alike at any time.

Q. Is that recollection distinct, without regard, I mean, to dates or subjects?

A. It is as distinct as my recollection would be on a subject that far back.

Q. Have you a distinct recollection as to whether or not a majority of them were ever uniform?

A. The same answer.

Q. You testified on direct examination on that subject?

A. Yes.

Q. I am only wanting now to know whether or not you have a definite and distinct recollection to the effect that you have just testified. I understand you have?

A. I have a distinct general recollection of that being the case.

Q. Without remembering dates or occasions?

A. Which would be impossible.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. You were questioned about some representative of the Government. Did he ask you anything about the Big Four or any purchases——

A. I do not recall that he did.

Q. Do you not recall that he did not?

A. I do not think he referred to it. My recollection is that he did not refer to it.

Q. Your recollection, now, as to the matters I asked you about is not any better than it was before adjournment when I asked you about them, is it?

A. No; I cannot say it is, with reference to specific times and places and dates.

Q. No; I am asking whether your recollection is now any better than it was this morning, before adjournment?

A. I should say no.

Q. You understood the questions that were addressed to you by me, did you not, before you answered them?

A. I think I did.

Q. Did you or not say that you recollected times when two were alike on the same bid?

A. That was my general impression; my general recollection.

Q. There were some of those times when you only had three bids, were there not?

A. I think that there were times when we had more than three bids.

Q. But were there not times when you did not have more than three bids?

A. I cannot recall that there were times when we only had three. I was quoting from recollection only.

Q. Is it not a fact that you do not carry in your mind the incidents of any one of those transactions?

A. I do not carry them clearly and distinctly in my mind with reference to specific times or specific prices.

Q. Or the relations of prices to each other?

A. Except in a general way.

Q. Just in a general way; and you cannot specify any particular one of them, can you?

A. I could not specify any particular one.

MR. DICKINSON: That is all.

By MR. LINDABURY:

Q. Do I understand your recollection is not any better now than it was before the recess, on the subjects you have testified about? I understood you to say that; am I right?

A. That my recollection is no better now than it was before recess?

Q. Yes.

A. No; it is no better.

Q. Have you not had a conference with Judge Dickinson since the recess?

A. It is true I have.

Q. That did not improve it any?

A. That did not improve my memory; no, sir.

MR. LINDABURY: That is all.

By MR. DICKINSON:

Q. You had a consultation with counsel for the defendant, too, since the recess, did you not?

A. Yes.

Q. With Mr. Lindabury?

A. Yes.

Q. You have had a conference with him since the adjournment, have you not?

A. Yes.

MR. DICKINSON: That is all.

WILLIAM O. ROGERS, JR.

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. Madison, New Jersey.

Q. What is your business?

A. Manufacturer of metal bedsteads.

Q. Where is that carried on?

A. Jersey City; Pacific Avenue, Jersey City.

Q. Have you a corporation or a partnership, or do you manufacture as an individual?

A. We manufacture as a corporation.

Q. What is the name of the corporation?

A. The New York Metallic Bedstead Company.

Q. What relation do you sustain to that company?

A. I am secretary and treasurer of the company.

Q. How long has that company been in existence?

A. It was organized in 1893.

Q. How long have you been its secretary and treasurer?

A. About five years.

Q. Were you connected with it before that time?

A. Yes, sir.

Q. How long?

A. I was one of the incorporators of it.

Q. Have you anything to do with the purchases?

A. I have; yes, sir.

Q. I mean the purchases of supplies for manufacturing.

A. I pass on all the contracts for supplies.

Q. Are you connected with any other concern using steel?

A. I am connected with Charles P. Rogers & Company as a member of the firm; that is a firm.

Q. Is that Rogers related to you whose name forms the title of the company?

A. He is my uncle.

Q. Where is that company in business?

A. Our salesroom is at 1416 East 33rd Street.

Q. What does that partnership manufacture?

A. They manufacture upholstery goods, springs, Davenport and bedding.

Q. How long has that company been in business?

A. Since 1855.

Q. By whom was it founded?

A. It was founded by my uncle, Charles P. Rogers.

Q. He is still living?

A. Yes; he is in his eighty-sixth year.

Q. Does that company use steel products?

A. Tubes only.

Q. What do they use tubes for?

A. For the making of wire springs.

Q. How do they make springs out of tubes?

A. We use them as a part of the sides.

Q. Where do they get their wire springs?

A. We make our wire springs; that is, we weave the springs themselves.

Q. Where do you get the wire?

A. We purchase it in the market.

Q. That is a steel product, is it not?

A. Yes, sir.

Q. That is steel wire, is it not?

A. Steel wire, yes.

Q. Have you anything to do with the purchases for that concern?

A. No, sir. That is left with our superintendent at the factory.

Q. Then you do not have anything to do with that?

A. No, sir.

Q. But you do pass upon the bids for the supplies for the Metallic Bedstead Company?

A. Yes, sir.

Q. What supplies do you buy for that company?

A. Steel angles, rounds, tubes—iron and brass tubes.

Q. What do you call rounds?

A. Round iron.

Q. You do not mean tubes, by that term?

A. No, sir.

Q. Round iron?

A. Yes.

Q. Do you buy that?

A. Yes, sir.

Q. Angles and rounds and tubes?

A. Yes, sir.

Q. What quantity of angles and rounds do you purchase a year?

A. Between 400 and 500 tons.

Q. How is it divided; what proportion is angles?

A. I think the major portion of it is. I would say 80 per cent.

Q. Do you also buy pig iron?

A. Yes.

Q. What do you do with that?

A. We melt that and use it in making the chills on an iron bedstead, and making the corners for an iron bed. It is melted.

Q. How do you make your purchases, do you obtain bids from manufacturers?

A. Yes.

Q. What percentage of your purchases, if any, are made on contracts for future delivery?

A. The major portion are made on contracts for future delivery.

Q. From whom do you invite bids for rounds and angles, assuming that you get them from the same concerns, do you?

A. We usually invite bids from certain concerns with whom we have been doing business for a number of years, the Buffalo Steel Company and the Carnegie Steel Company and the Sweet Steel Company.

Q. Where is that located?

A. Williamsport, Pennsylvania.

Q. Had you finished naming them?

A. Yes.

Q. You did not answer my question as to whether or not you buy rounds and angles together, ordinarily, or do you buy them separately?

A. We buy them separately.

Q. From the same or different concerns?

A. Different concerns.

Q. What were you answering as to, angles?

A. Angles; that is a large part of our steel.

Q. Are the quotations you receive on angles ordinarily the same, or do they ordinarily vary?

A. They generally vary.

Q. Does your answer apply to the whole of the last ten years?

A. Yes; to the best of my recollection.

Q. After getting quotations is it your custom to negotiate with the bidders for a better price or not?

A. We of course desire to buy the goods as cheap as we can, and I think we go to everyone that is in the market in selling angles.

Q. Are you waited upon from time to time by representatives of the different manufacturers?

A. By their agents.

Q. Do they quote prices to you?

A. Yes, sir.

Q. Do the prices that they quote agree or do they vary?

A. They vary.

Q. And has that been so during the whole period mentioned, ten years?

A. Yes.

Q. Have there been times when two of them would quote the same price?

A. Not that I recall.

Q. Would the one quoting the highest price at one time continuously be high?

A. No; it varied. We place our contracts with the lowest bidder, and they are not always made by the same man or by the same company, rather.

Q. Have there been occasions when one who had at one time been the highest bidder would be the lowest?

A. Yes.

Q. How have you divided your business, if you can tell,

among these concerns that you have named? I mean your business in angles.

A. Do you want me to specify the years that we have bought?

Q. If you are able to; or give the percentage.

A. In 1913; that is the present year, we placed our contract with the Sweet Steel Company. The last six months of 1912, the Sweet Steel Company. The first six months of 1912 with the Carnegie Steel Company.

Q. Before going further—I will go back to the other years—why did you so place them?

A. Going backwards?

Q. No, why did you place the contract one time with the Sweet, and at another time with the Carnegie?

A. Because they were lower; we placed it with the lowest offer we received.

Q. Going on back, take 1911.

A. In 1911 I am under the impression it was with the Buffalo Steel Company, and the year back of that, prior to that, was with the Buffalo Steel Company.

Q. Why with the Buffalo those years?

A. Because they were lowest in price.

Q. Go on.

A. I could not state beyond that.

Q. You cannot remember definitely beyond that?

A. No, it was with either one of those companies.

Q. Can you remember whether or not you gave your contract to any one of those for any number of years in succession prior to the one you last named?

A. No; I haven't any recollection of that; I do know that we always awarded the contract to the lowest bidder.

Q. And do you know whether or not that lowest bidder was generally not the one who had gotten the contract the year before?

A. I could not tell prior to the time I have testified to.

Q. Very well, I will not press you on that. Now, with regard to rounds, where did you invite, or from what source did you invite bids on rounds?

A. Well, we are rather small users of rounds, and we usually buy them by telephone communications.

Q. How about tube, do you use much?

A. We use quite a good deal, iron and brass tube, and brass covered tube.

Q. I am not interested in either brass or iron tubes. Do you buy any considerable quantity of steel tubes?

A. Yes.

Q. From whom have you obtained quotations on that?

A. We get quotations on that from the Newark Tube & Metal Company, and the Standard Tube Company; that is also in Newark. We are speaking of steel tubes?

Q. Yes.

A. And the National Tube Company; the majority of our purchases are made from the National Tube Company.

Q. Any particular reason for that?

A. Yes.

Q. Have their prices always been the lowest, or generally the lowest?

A. Not always have been the lowest, but we have given them our business because we get better results from their tubes than we do from the others.

Q. That is, quality has entered into the award?

A. Very largely. In our business we have to make a number of bends, in hospital beds, and beds of different kinds, and we find that we can bend the National tube with very much smaller percentage of loss than we can the others. It bends truer, and, as a matter of fact, we do not consider the price so much in buying steel tubes as we do the results that we obtain.

Q. Have you bought all your tubes from the National?

A. Very nearly all of them.

Q. Just what percentage? What do you mean by very nearly all?

A. I should say 85 to 90 per cent. of our tubes we buy from the National.

Q. Where have you bought the rest?

A. The Standard and the Newark.

Q. And have you gotten quotations from time to time from other concerns, notwithstanding your heavy purchases from the National?

A. We always get quotations to see if we are buying right.

Q. And how do you find the quotations, uniform or variant?

A. They vary.

Q. Has the National Tube always been lowest? I do not know but what you have answered that question.

A. I have answered that.

Q. Has the National Tube ever been lowest?

A. I could not answer that.

Q. Because I think you said your purchases are not determined so much by price as by quality?

A. Yes. It is for that reason that I cannot answer it.

Q. Has your business grown during the last ten years?

A. Yes, sir; it has increased, with the exception of this year.

MR. LINDABURY: Your witness.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You have been secretary and treasurer for five years of the New York Metallic Bedstead Company?

A. Yes, sir.

Q. What were your general duties as secretary and treasurer?

A. General supervision of the business.

Q. You had all departments of the business, did you, to supervise?

A. Yes, sir.

Q. Was it a pretty large business of its kind?

A. Yes, sir; it is fairly large. It is not the largest bedstead company.

Q. You had a number of departments, did you?

A. I attended to not only the placing of the contracts, but the financial part of the business.

Q. You said you passed on all contracts. What did you mean by "passed on all contracts"?

A. The superintendent collects his prices and submits them to me. I go over the matter with him, and tell him where to purchase.

Q. You said you bought at the cheapest price, did you?

A. Yes, sir; in angles.

Q. When he would get a variety of prices, if he did, at times, for angles, would he make recommendations as to purchase?

A. He would submit all the prices he got. We usually buy on six months' wants.

Q. He made no recommendations?

A. I can not say that he made no recommendations. He would state to me that he got better results from certain iron and certain tubes than he did from others.

Q. Prior to five years ago, what did you have to do with the purchases?

A. I had the power of attorney of my uncle, who is president of the company, and I represented him.

Q. In this company?

A. In this matter, yes.

Q. What were your duties then?

A. I signed the checks, and I looked over the business, as his representative.

Q. As his representative?

A. Yes.

Q. Were you there all the time, or from time to time?

A. Only from time to time.

Q. Were you a salaried officer of the company then?

A. No, sir.

Q. You were simply representing him?

A. Simply representing him.

Q. Who was secretary and treasurer five years ago?

A. Joseph Hardie.

Q. You had nothing to do with the purchases then, did you?

A. Excepting as a representative of the president.

Q. But you had a man in charge of that duty, just as you are in charge of it now, did you not?

A. Yes, but I was consulted, though.

Q. You were consulted?

A. Yes.

Q. But you had a man, prior to five years ago, who had the authority with respect to purchases that you now have?

A. No, sir; he had not the same authority.

Q. What did he have? He was charged with the duty of making purchases, was he not?

A. He had to submit his recommendations to the president of the company, Mr. Charles P. Rogers, or the president's representative, whom I was at that time.

Q. Do you now submit your recommendations to the president of the company?

A. No, sir; my uncle leaves the matter entirely in my hands.

Q. He leaves the matter entirely in your hands?

A. Yes.

Q. How much of your time did you spend there prior to five years ago?

A. I suppose one or two days a week, or part of the day; I do not know that it was the entire day.

Q. Part of the day, one or two days in a week?

A. Yes.

Q. During that time could they not buy anything without your knowing it?

A. Not on contracts.

Q. Not on contracts?

A. No.

Q. But on other purchases?

A. For immediate wants, yes.

Q. They went ahead, then, and bought on other purchases, without always referring it to you?

A. Yes.

Q. Do you know now what per cent. of purchases which were non-contract purchases were submitted to you for the period five years back of the last five?

A. That were not submitted to me?

Q. Yes.

A. A very small percentage; only for immediate wants.

Q. But I mean of those that were bought for immediate wants, do you now undertake to say what proportion of them were submitted to you?

A. No; I say only the contracts were submitted to me.

Q. Only the contracts were submitted to you?

A. Yes.

Q. Take six years ago. What was the tonnage of angles bought by that company?

A. I should say about 350 tons.

Q. How much?

A. 350 tons.

Q. Six years ago?

A. Yes.

Q. That is the year before you began there as secretary and treasurer?

A. Yes.

Q. How much seven years ago?

A. I should say about the same. The business has varied very little.

Q. Would it be the same eight, nine or ten years ago?

A. Probably about in the same neighborhood.

Q. Now, what size angles were those?

A. $1\frac{3}{4} \times 1\frac{3}{4} \times 3/16$.

Q. Those are small sizes, are they not?

A. Yes, those are small sizes; used as side rails for bedsteads.

Q. Side rails for bedsteads?

A. Yes.

Q. Do you know from whom that company purchased ten years ago? Do you recall now? Do you remember?

A. Ten years ago?

Q. Yes.

A. You mean in 1903?

Q. Well, you were questioned for ten years back. Now, what is the farthest year that you——

A. (Interposing) I think I stated I could not go back beyond a certain distance. I could not go back ten years.

Q. How far back did you say you could go?

A. I think I stated I could go back about five years.

Q. About five years?

A. Yes.

Q. You say now, then, that your recollection as to prices and bids goes back five years; is that correct?

A. Yes; but I have a general recollection of whom we bought the things from, but I could not state whether we bought angles in 1903 from the Buffalo Steel or the Sweet Steel Company, or some other company, but I know we bought angles those years from the lowest bidder.

Q. Take back of five years; can you make any statement as to any of those years, as to from whom you bought, or the quantities or prices at which you bought, or the bids that were taken, and from whom they were taken, and their relation to each other?

A. No.

Q. Then you cannot speak, really, as to the relation borne by bids back of five years; is that correct?

A. Not with any positive knowledge.

Q. Well, not with sufficient knowledge to justify you in stating anything accurately about it, could you?

A. I can state to the best of my recollection that we purchased those angles from these different companies at the lowest price. Now, as to the particular company I purchased from that year, it would be impossible for me to tell.

Q. Or as to who bid, it would be impossible for you to tell?

A. Yes.

Q. On any particular purchase?

A. Yes.

Q. Or as to what the prices were or their relation to each other; that would be impossible, too, would it not?

A. Without referring to the books it would be impossible.

Q. I am speaking now as you are testifying. That is true, is it not?

A. Yes.

Q. Now, take five years ago. From whom did you buy angles that year?

A. I testified that my impression was we bought it from the Buffalo Steel; four or five years.

Q. What year would that be that you recollect you bought from the Buffalo Steel?

A. 1908.

Q. How?

A. 1908.

Q. 1908?

A. Yes.

Q. And do you recall now that you did buy from the Buffalo Steel in 1908?

A. I said that was to the best of my recollection.

Q. All your requirements?

A. Yes, all our contract requirements.

Q. In 1909 do you recall from whom you bought?

A. In 1909 I think we bought from the Buffalo.

Q. From which?

A. From the Buffalo Steel.

Q. All your requirements?

A. I think all of our contract requirements.

Q. I am speaking of contract requirements.

A. Yes.

Q. How about 1910?

A. That was the Buffalo.

Q. How about 1911?

A. We had a contract that year with Carnegie; the latter part of the year.

Q. The latter part of 1911?

A. Yes.

Q. Who was it with the other part of 1911?

A. With the Buffalo, I think.

Q. Now, as to 1912; who was it with?

A. The first part was with the Carnegie.

Q. How about the last part of 1912?

A. I think that was with the Sweet Steel.

Q. And you are sure, now, are you, that you recall back of 1910?

A. I am sure, to the best of my knowledge.

Q. And you have no better recollection on that now, have you, than you had on your direct examination?

A. No, sir.

Q. Take for this year: can you give the bids that were received on any particular purchase and the relation that they bore to each other, and from whom you received them?

A. We had a bid in 1913 from the Sweet Steel of \$1.50; that is for the size angle that we use, 1 3/4 by 3/16, and the Carnegie, I think, was \$1.54, and the Buffalo, I think, was between the two.

Q. What contract was that in 1913?

A. That was the last contract we made.

Q. How long ago was that?

A. Running for the last six months of this year.

Q. When was that made? In what month?

A. That may have been made in June, but it would take effect the first of July.

Q. Was that delivered?

A. Yes; we got some of it.

Q. No; I mean were the quotations, or the price, delivered?

A. No; f. o. b. the mills.

Q. F. O. B. the mills of the respective companies?

A. Of the respective companies; yes, sir.

Q. And who was to pay the freight?

A. Our company.

Q. Your company was to pay the freight?

A. Yes.

Q. What other contract do you recall where you can state who the bidders were and what the bids were on angles?

A. A contract in the first part of 1913 for \$1.19.

Q. When was that?

A. The contract was made, probably, in the latter part of 1912, to cover the first six months of 1913.

Q. With whom did you make that?

A. With the Sweet Steel.

Q. How many bids did you take on that?

A. We got quotations from Carnegie and we got quotations from the Buffalo.

Q. That is all?

A. That is all; yes, sir.

Q. Do you know what the quotations were, now? Can you state what they were?

A. Not on that; no, sir.

Q. Can you state any other than the one which you have stated which was made in June of 1913?

A. No, sir; I cannot.

Q. That is the only one, of all the purchases throughout this period, where you can state what the quotations were that were made to you by the competitive bidders?

A. Yes, sir.

Q. Are these angles all steel that you have been dealing with?

A. Yes, sir.

EMANUEL WINELANDER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live?

A. 901 Ocean Avenue, Brooklyn.

Q. What is your business?

A. We are making a steel lined brass tubing.

Q. What is the name of your firm or corporation?

A. It is a firm; Winelander & Jackson is the style of it.

Q. How long has that firm been in business?

A. About eleven years.

Q. What if any steel material do you have to purchase from which you make the product that you manufacture and sell?

A. For the last couple of years it has amounted to between eight and nine thousand tons annually. That is in the last two years.

Q. Has that been increasing from year to year?

A. Yes, sir.

Q. What is the character of the steel product that you buy? What is it—bars or hoops or what?

A. Part of it is known as hoops; another portion of it is known as hot rolled strips.

Q. How much of it is hoops; about what tonnage?

A. Twelve to fifteen hundred tons a year.

Q. And about how much hot rolled strip steel do you buy?

A. The balance; about 7,000 tons.

Q. What is the tubing that you manufacture sold for?

A. Mostly for bedsteads.

Q. Where is your market?

A. About 60 per cent. of it is sold locally.

Q. You mean to manufacturers of bedsteads?

A. That is in the district where we can deliver by truck. We reach the district as far as Newark by truck, and Bayonne, and up in Harlem, and Jersey City—the surrounding country here takes about 60 per cent. of our product.

Q. The balance of it you ship?

A. The balance of it is sold all the way to the Pacific coast. We ship some stuff as far as San Francisco, occasionally; occasionally we export some.

Q. From what mills have you purchased your supply of hoop steel?

A. Does that mean recently?

Q. Over this period of time you have been in business, for eleven years?

A. We have bought from all of them.

Q. Give us the names of some of them.

A. The Pittsburgh Steel Company, West Leechburg Steel Company, the Sharon Steel Hoop Company and Carnegie.

Q. How do you make your purchases; by contract or otherwise?

A. By contract.

Q. How often do you usually contract?

A. Twice a year.

Q. Before you enter into a contract do you secure quotations from these companies?

A. We certainly do.

Q. What has been your experience as to whether the prices quoted you by the different mills have been uniform or variant?

A. We always find a variation.

Q. Is the competition in the sale of this material, so far as you have observed it, that is, the sale of hoop steel, active or otherwise, the competition between these mills?

A. There have been times when we have found the scramble for our business rather a fierce one.

Q. It has been an active competition?

MR. COLTON: That is objected to as leading; he has not so testified.

By MR. SEVERANCE:

Q. Has there or has there not always been an active, strong competition?

A. We have always found competition.

Q. From whom have you made your purchases of hot rolled strip steel?

A. The West Leechburg Steel Company, the Sharon Steel Hoop Company, the Superior Steel Company, the American Tube & Stamping Company and the Stanley Works, and the American Steel & Wire Company.

Q. How recently have you bought any from the American Steel & Wire Company?

A. Two years ago.

Q. Have you bought off and on from these various companies for a number of years last past, the ones you have named?

A. Yes, sir.

Q. In what way do you make your purchases of hot rolled strip steel, by contract or otherwise?

A. By contract.

Q. Do you secure quotations before making your contracts?

A. Yes.

Q. What has been your experience as to the quotations received from different concerns, have they been uniform or varying?

A. We have always been able to find differences in quotations.

Q. Have you tied yourself up to any one of these various mills making either class of steel that you have mentioned, or have you traded with one or another as you could do the best?

A. Yes; we have always looked at it from our own standpoint; we try to get as much for our money as we possibly can.

Q. You have not been a regular customer of any one of them?

MR. COLTON: I object to that as leading; he has not so testified.

By MR. SEVERANCE:

Q. Have you been a regular customer of any one of them, or do you buy from different ones?

A. Not from any one of them continuously during that period.

Q. Has the competition between these mills making hot rolled strip steel been an active one at all times or otherwise?

MR. COLTON: I object on the ground that this witness is not shown to be qualified to answer the question. He has no knowledge beyond his own business.

MR. SEVERANCE: He is a purchaser. I think I will take his answer. You may answer.

THE WITNESS: I have always found differences.

MR. SEVERANCE: Repeat the question to him.

(The stenographer repeated the question as follows:)

“Q. Has the competition between these mills making hot rolled strip steel been an active one at all times or otherwise?”

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. You say that you haven't bought anything from the American Steel & Wire Company for two years. Have you bought any of the hoop steel from the Carnegie Company during that period of the last two years?

A. Yes.

Q. Previous to two or three years ago which one of those companies got the bulk of your business in hoop steel?

A. Previous to about three years ago the Pittsburgh Steel Company got most of our business, nearly all of it.

Q. Is your business one in which you have competition?

A. It certainly is fierce and always has been.

MR. SEVERANCE: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. What is the chemical analysis of the hot rolled steel that you purchase?

A. We have no such requirement as to furnish chemical analysis.

Q. And you do not specify any such thing?

A. No such specification.

Q. What is your base size? Do you have any base sizes in that product of hot rolled strip steel?

A. No.

Q. And it is used indirectly for bedding purposes?

A. Yes; our finished product.

Q. Now, as regards hoop steel, from what different companies did you purchase hoop steel in 1902?

A. The Pittsburgh Steel Company.

Q. That is the year you began to purchase hoop steel?

A. Yes.

Q. What other company did you purchase hoop steel from at that time?

A. No other.

Q. What other companies did you solicit bids from at that time?

A. Probably all of them.

Q. I do not want to know probably; I want to know what your recollection is; what companies you recall having solicited bids from in the year 1902, other than the Pittsburgh Steel Company, if any?

A. I cannot answer that question except to give my usual habit, to go around and shop. That has been my continual habit, to shop.

Q. That is all you recollect about that year?

A. Yes; that has always been my practice.

Q. Take the year 1903; from what company did you purchase your hoop steel?

A. The Pittsburgh Steel Company.

Q. Do you know how the Carnegie Company's price on hoop steel compared with the Pittsburgh Company's price in 1903?

A. Certainly not.

Q. Do you know how it compared in 1902?

A. I know that the one with the lower price usually got the business. There were times when there was some other consideration besides price.

Q. Do you know how it compared in 1902?

A. I could not begin to tell you those years, the actual prices.

Q. Would your answer be the same for 1904?

A. Precisely.

Q. And 1905?

A. Yes.

Q. 1906?

A. Precisely.

Q. 1907?

A. I always bought where I could do the best.

Q. Would your answer be the same as regards the Pittsburgh Steel Company's price and the Carnegie Company's price being the same?

A. For any others.

Q. You have no recollection as to the price between the two companies?

A. Only in a general way; I cannot give you the dollars and cents part.

Q. Do you know whether in 1902 the Carnegie Company's price was higher or lower than the Pittsburgh Company's price, taken into account the other considerations that you sometimes took into account?

A. I do know that in 1902, 1903 and 1904, and possibly 1905, Carnegie was higher than Pittsburgh Steel, but how much higher I could not tell you.

Q. Do you recall that now?

A. Oh, yes.

Q. You said a moment ago that you did not recollect.

A. You tried to fix the difference in price, and I could not tell you that now; I cannot tell you the exact number of cents difference that existed between the prices.

Q. Didn't you say that you sometimes purchased, and during that period you did purchase on other considerations than price?

A. During that period, yes.

Q. And gave it to other than the lowest bidder?

A. Yes.

Q. Have you any recollection why you gave it to the Pittsburgh Company in 1902?

A. I know we did not give it to the Pittsburgh Steel Company at that time or any other time on account of anything else but price.

Q. Was price your only consideration?

A. In that particular case yes?

Q. How about 1903?

A. That was true in 1902 and 1903.

Q. 1904?

A. And 1904; in fact since we have bought from the Pittsburgh.

Q. Price was your only consideration in purchasing from them?

A. Yes.

Q. How many years did you continue to purchase from the Pittsburgh Steel Company?

A. About five or six years.

Q. Now, from what manufacturers did you solicit bids in 1903?

A. During that period I solicited bids from them all.

Q. I want to know just whom you now recall having solicited bids from in 1903.

A. The Sharon Steel Company, the Pittsburgh Steel Company and the Carnegie Company.

Q. 1904?

A. The same.

Q. 1905?

A. Same.

Q. 1906?

A. Same.

Q. 1907?

A. You can carry that all along up to 1913.

Q. Just those same three companies?

A. Except in a few years the West Leechburg Steel Company figured in the quotation.

Q. But you cannot now recollect any year in which they did figure in the quotation?

A. Yes; they figured in the quotation in 1910 and 1911.

Q. Any other years?

A. I am not absolutely certain about it.

Q. You have probably stated how long you continued to purchase from the Pittsburgh Company, but I have forgotten it. Could you give that again?

A. About five or six years.

Q. Up to within five or six years of the present time?

A. Covering a period of five or six years.

Q. From 1902 to 1907, inclusive?

A. Yes.

Q. From whom did you purchase in 1908?

A. I think Sharon.

Q. The Sharon Hoop?

A. Sharon Steel Hoop Company.

Q. 1909?

A. Both Carnegie and Sharon.

Q. How did you divide your tonnage that year?

A. I do not recall that.

Q. Do you recall the difference in price between the Carnegie Company that year and the Sharon Steel Hoop Company, in 1909?

A. The Sharon Steel Hoop Company were, as I remember, the same price, except that we got a shearing process for which there was no charge.

Q. The same price as Carnegie during that year, except for that shearing process?

A. That shearing would cost two dollars a ton, ordinarily.

Q. The only other company, I believe, that you said you

got any from in the year 1909 was—there was the Carnegie and the Sharon Steel Hoop, and the Pittsburgh Steel?

A. No; the Pittsburgh Steel did not figure in 1909.

Q. They did not bid on it?

A. I did not say that. I said they did not get the business.

Q. Well, did they bid?

A. They did not get the business. In 1909 we placed our business with Sharon and Carnegie.

Q. I understand, but I want to know whether the Pittsburgh Steel Hoop Company bid in 1909.

A. Oh, yes.

MR. SEVERANCE: It is not the Pittsburgh Steel Hoop Company.

MR. COLTON: The Pittsburgh Steel Company.

THE WITNESS: Yes.

By MR. COLTON:

Q. Do you recall what their bid was?

A. No, sir.

Q. Take 1910: to whom did you give your business?

A. Carnegie.

Q. What other companies bid on your business for that year?

A. Sharon Steel Hoop and Pittsburgh.

Q. Do you remember the bids of the Sharon Steel Hoop and the Pittsburgh for that year?

A. And the West Leechburg came in in that year.

Q. Well, do you remember the bid of the Carnegie Steel Company for that year?

A. I do not remember the bid, or I do not remember the price at which we placed the business.

Q. Do you remember the price of any of the bids for that year?

A. Absolutely not.

Q. In 1911, I believe you have already testified that the Sharon Steel Hoop and the Pittsburgh and the West Leechburg and the Carnegie bid?

A. Yes.

Q. And to whom did you give it?

A. Partly to West Leechburg, and the most of it to Carnegie.

Q. What was the difference in price between West Leechburg and Carnegie for that year?

A. I do not recall the price. I can only say what I have said before, that we always placed our business where we could do the best.

Q. You do not recall now whether the prices were the same or not?

A. I never found the prices the same in any case.

Q. Well, you testified a moment ago that they were the same as between——

MR. SEVERANCE: No, he did not.

MR. COLTON: That they did some work for you in addition——

THE WITNESS: Well, that amounted to a difference in price, actually.

MR. SEVERANCE: Two dollars a ton.

By MR. COLTON:

Q. Take the year 1912. To whom did you let your hoop steel purchases?

A. Carnegie.

Q. And at what price?

A. I do not recall that.

Q. Did you give your entire business to Carnegie in 1912?

A. Yes.

Q. In 1913 to whom did you give your business?

A. Carnegie.

Q. At what price?

A. I do not recall that.

Q. Do you not recollect the price at all for the year 1913 at which you let your contract to Carnegie?

A. I certainly do not. When I want to look up the price that we are paying, I would look at the contract in my office. I have got two or three other things to remember.

Q. You do not pay so much attention to the price, then; you do not try to keep that in your head?

A. No; it is not necessary. We have it so arranged that it is not necessary to burden your mind with that.

Q. With these various figures—it is not necessary to burden your mind with these various figures?

A. They are handy enough when we want them.

Q. You keep them as a matter of record, and do not try to recollect them otherwise, do you? You have no special reason to do so?

A. Well, we have lots of reason to look at those figures, but we do not try to commit them to memory. Whenever it is necessary to reach those figures, they are very handy.

Q. Have you any base price in steel hoops?

A. No, sir.

Q. Any base sizes in steel hoops?

A. No, sir.

Q. Are there any standard sizes in steel hoops?

A. No, sir.

Q. Do you mean to say that you do not have any size that is standard? Do you have any system of extras in steel hoops?

A. We get net prices.

Q. What?

A. We get net prices; delivered prices.

Q. You get net prices?

A. Yes.

Q. I know, but do you not have any arrangement by which, when you are given a price on a certain size of hoop, that you can figure the price on other sizes?

A. Yes; that was included in one of our contracts, but we never had occasion to order anything different than what is specified in our contract. Net prices are given for those sizes.

Q. There is one size from which you can figure the prices of other sizes; is that right?

A. No, sir. In one of our contracts we had that.

Q. In which one of your contracts?

A. I think that was this year's.

Q. That is, in the Carnegie contract?

A. Yes, sir; that is the latter part of this year's contract; that was the contract covering the latter part of this year.

Q. Do you know within a dollar a ton what you are paying Carnegie this year for hoop steel?

A. Our contract price, as I recall it, was \$1.66, delivered.

Q. \$1.66 delivered?

A. Yes.

MR. SEVERANCE: That is not a ton.

MR. COLTON: That is 100 pounds?

THE WITNESS: That is 100 pounds.

By MR. COLTON:

Q. Do they quote steel hoops to you f. o. b. Pittsburgh?

A. That is a delivered price.

Q. I say, do they also quote it f. o. b. Pittsburgh?

A. Possibly they do, but in arriving at our conclusions we take in either the delivered or non-delivered price. It is all put into their estimate or quotation. We always, I think, as I remember it, had a delivered price from Carnegie. Some of the other mills quote f. o. b. their works.

Q. And in making a comparison of the price, and looking at it from your point of view as to which company you will select, you look at the delivered price, of course?

A. Oh, yes; certainly.

Q. And that is the price concerning which you have been testifying—the delivered price?

A. Yes, sir.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. You said that at times there were other considerations than price that entered into the purchase of these products. What were those other considerations you had in mind?

A. The reliability of the concern with whom we did business.

Q. The reliability of the concern in making deliveries, you mean?

A. Yes; that principally, and accommodations in various other ways.

MR. SEVERANCE: That is all.

LAMBERT N. HOPKINS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you reside?

A. Chicago.

Q. What is your business?

A. Purchasing agent of the Chicago, Burlington & Quincy Railroad.

Q. How long have you been purchasing agent of the Chicago, Burlington & Quincy Railroad?

A. Eight years and five months.

Q. And how long have you been connected with that railroad in one capacity or another?

A. It will be twenty-nine years next May.

Q. Have you ever been in the service of any other railroad than the C., B. & Q.?

A. No, sir.

Q. Previous to the time you were purchasing agent what was your position?

A. I was supply agent. I had charge of all the storehouses and all the material along the road.

Q. But had nothing to do with the purchases?

A. No, sir; not a thing.

Q. In so far as your purchases consist of steel products, did you have anything to do with purchasing previous to eight years and a few months ago, when you became purchasing agent?

A. No, sir; never.

Q. And since that time have the steel purchases been in your charge as well as others?

A. Yes.

MR. DICKINSON: Do you mean rails now?

MR. SEVERANCE: Yes; rails—he will explain that. I will have him explain just how that is.

By MR. SEVERANCE:

Q. You have to do with the purchase of rails, in conjunction with others, have you not?

A. Oh, yes.

Q. And outside of the rail purchases do you have, as a rule, the entire charge of the purchases?

A. Yes, sir.

Q. Can you give an estimate of about the annual tonnage requirements of the C., B. & Q. Railroad in general miscellaneous steel products, outside of rails?

A. Well, outside of rails and rail fastenings—I think I would have to leave out steel bridges—I should say in general miscellaneous steel about 57,000 to 60,000; but it would be very much more than that if you included bridges and rail fastenings and spikes.

Q. About what are your annual requirements of rails; or does that differ from year to year?

A. That varies from year to year. Sometimes thirty or forty thousand tons, and I have known it to go up as high as 90,000 tons.

Q. Do you remember what it is this year?

A. You mean for the year 1913?

Q. For the year 1913, yes.

A. 65,000 tons.

Q. What is the mileage of the C., B. & Q., exclusive of the Colorado & Southern?

A. Something over 9,000 miles.

Q. How long is the Colorado & Southern?

A. I think about 1,100 miles.

Q. That is a subsidiary, is it not?

A. Yes; that is a subsidiary line.

Q. Do you do the purchasing for the Colorado & Southern?

A. Not all of it; part of it.

Q. Do you make the rail purchases?

A. No, sir.

Q. Who are they made by?

A. I don't know.

Q. What is the chief source of supply of the C., B. & Q. as far as rails are concerned?

A. From the Illinois Steel Company and the Colorado Fuel & Iron Company.

Q. Will you state, just so that it will be in this connection, very briefly where your lines run? They start at Chicago, in the east?

A. We run from Chicago to Kansas City, St. Louis, Omaha, Denver, St. Paul, and as far out as Billings, Montana.

Q. Are there any other steel plants that are contiguous to the rails of the C., B. & Q. aside from the Illinois Steel Company and the Colorado Fuel & Iron Company that make rails?

A. No, sir.

Q. Outside of the rails that you purchase from the Colorado Fuel & Iron Company and the Illinois Steel Company, what other mills are there that supply any portion of your rail requirements?

A. We have bought small quantities of rails from the Lackawanna, the Pennsylvania Steel Company, the Bethlehem, and, I think, from the Cambria. I won't be positive about that.

Q. Do you have peculiar specifications for your rails, or do you buy what are commonly known as standard rails?

A. We have been buying on the standard specifications.

Q. And do you buy open hearth or Bessemer rails?

A. We are buying open hearth now. We have bought Bessemer.

Q. Have the prices of the various mills for rails f. o. b. the mills been the same for a number of years past?

A. Yes, sir.

Q. What advantage is there, then, in price or cost to

you, if any, in buying of the Illinois Steel Company and the Colorado Fuel & Iron Company, rather than the mills in the east?

A. Well, they are cheaper because they deliver the rails f. o. b. our tracks. They are very close to us, of course. They absorb the switching charge and the rails are delivered f. o. b. our tracks; and from the other mills we would have to pay the freight, whatever it is, from the mills to Chicago.

Q. What has been the extent of your rail purchases from these mills in the east?

A. Oh, varying from 3,000 to 5,000 tons perhaps from any one of them.

Q. In a year?

A. Yes.

Q. What was the purpose of making these purchases? How did you happen to do it, if they cost you more money?

A. Simply because they claimed they make a better rail than the Colorado Fuel & Iron or the Illinois Steel Company, and we bought those rails experimentally.

Q. Are you buying any rails from the eastern mills this year?

A. For next year's delivery?

Q. Yes.

A. Yes, sir.

Q. How much, and from what company?

A. About 3,000 tons, from the Lackawanna.

Q. Did you buy any rails from eastern mills for 1913 consumption?

A. Yes.

Q. What company?

A. The Lackawanna.

Q. Do you happen to remember how much more those rails cost you than the Illinois Steel rails, delivered f. o. b. Burlington tracks?

A. They came lake and rail, and my recollection is that f. o. b. cars our tracks they would cost us \$1.31 or something like that more than the Illinois Steel rails.

Q. You say you have made those purchases of rails for experimental purposes? Will you explain that a little more

fully? What is claimed for these rails as against the rails of the Illinois Steel Company and the Colorado Fuel & Iron, that induced you to make the purchases in the east?

A. They last longer; they are a safer rail, and last longer.

Q. You spoke of buying some rails from the Cambria and the Pennsylvania.

A. I wasn't sure about the Cambria.

Q. But you bought from the Pennsylvania?

A. Yes, we had some of theirs and some of the Bethlehem.

Q. What particular virtue is claimed for those rails rolled at the Bethlehem or at the Pennsylvania Steel Company's plant over the rails rolled at Chicago or at Pueblo, that induced you to buy at this higher price?

A. I would not care to go into the detail of that, because I am not a technical man. They claim that they are a better rail, but that is as far as I care to go.

Q. And you are trying them out, are you?

A. Yes.

Q. Has much effort been made by these eastern rail makers to induce you to try their rails?

A. Yes.

Q. What form did that effort take?

A. Oh, by continually soliciting our business.

Q. Outside of rails in general, what classes of steel products do you buy? Can you enumerate some of the articles?

A. Well, we buy sheets and bridges, all kinds of structural material, bolts, spikes, angle bars, practically everything they make.

Q. Do you buy any wire goods?

A. Yes.

Q. What kinds?

A. Barbed wire and woven wire fence, and we buy telegraph wire and common wire and insulated wire.

Q. Do you buy any plates—or did you mention plates?

A. Yes, we buy plates; boiler plates and sheets of all kinds.

Q. Do you buy any boiler tubes?

A. Yes, lots of them.

Q. Do you buy any axles?

A. Yes.

Q. And wheels?

A. Yes.

Q. What kind of wheels, steel or iron?

A. Principally iron. We have bought a few solid steel wheels to experiment with. That is in its experimental stage with us; we are not at all convinced that it is the most economical proposition.

Q. Then, have you purchased iron wheels with steel rims?

A. Oh, yes; we buy steel tired wheels for passenger coaches principally, with the cast iron centers. Of course we buy steel tires for locomotive and tender wheels.

Q. You have stated that the prices of steel rails have been, for standard specifications, the same at different mills for a number of years past?

A. Yes.

Q. How has it been with your other classes of steel products that you bought? Have you found the prices uniform or varying, ordinarily?

A. Oh, they vary.

Q. What is your practice in buying the general run of steel products, such as you have enumerated here, as to requesting or receiving bids or tenders from the different manufacturers or mills?

A. Price and quality, all things even.

Q. Well, do you receive bids, do you get bids?

A. As a rule I send out written inquiries; sometimes I do not; sometimes I get verbal bids.

Q. Is it or is it not your custom to place your orders on a competitive basis?

A. Yes.

Q. What percentage would you say of this miscellaneous steel is let, or contracts for it let on competitive bids?

A. Eighty-five to ninety per cent.

Q. What is the occasion of a certain part of it being purchased without bids?

A. Frequently we want something in a big hurry and have to get it wherever we can.

Q. A sort of emergency purchase?

A. Emergency case, yes; and there are times when the condition of the market is such that it is not advisable to make contracts, or anything of that kind.

Q. That is, when it is more advisable to buy from hand to mouth?

A. Yes.

Q. It appears by the petition in this case, and as I recall, the fact has been stipulated, that Mr. George F. Baker, one of the directors of the United States Steel Corporation, and Mr. Norman B. Ream, one of the directors of the United States Steel Corporation, are both of them directors of the Chicago, Burlington & Quincy Railroad Company. I would like to ask you whether either one of those gentlemen has ever interfered in any way with the purchase of steel products by the Chicago, Burlington & Quincy Railroad Company, directly or indirectly, so far as you have ever heard.

A. No, sir.

MR. COLTON: I object to the witness giving testimony on hearsay, and I object to the statement as hearsay.

By MR. SEVERANCE:

Q. You have stated that the purchases of miscellaneous steel are made absolutely by you, have you not?

A. Yes.

Q. Have either of those gentlemen, either directly or indirectly, ever endeavored to influence your action in placing any order whatsoever for steel products of the character manufactured by the United States Steel Corporation?

A. No, sir.

Q. You have stated that you, with other officials of the road, distribute the rail tonnage——

MR. DICKINSON: No, he has not said that.

THE WITNESS: We do. I do not know whether I stated that, but we do.

MR. SEVERANCE: I asked him that and he said that.

MR. DICKINSON: Distributed the rail tonnage?

THE WITNESS: No, I never testified to that.

MR. SEVERANCE: The rail purchases?

MR. COLTON: You had better ask him what he does in reference to that.

MR. DICKINSON: He did not say what you said he said.

THE WITNESS: You asked me if I bought the rails; that is my recollection. You did not ask me what I did with the other officials after distributing the rails. If you did, I beg your pardon.

By MR. SEVERANCE:

Q. That is what I had in mind, but let me ask you: Just tell what course is taken in determining the mill that shall furnish the rails.

A. That matter is discussed between the operating officials and myself, and we decide on the division, and the amount of rail is approved by the president.

Q. The operating officials. Who are the operating officials?

A. Mr. H. E. Byram, vice-president——

Q. (Interposing) Mr. Byram is vice-president in charge of operation?

A. Yes.

Q. And Mr. Byram and yourself, in the first instance, decide that question?

A. We talk the matter over, and decide about the distribution of the purchases of rails.

Q. Now, what is done by the president?

A. He authorizes the amount of rails that the operating officials decide that they would like to have for the coming season. He decides whether we can afford to buy it, in other words; whether we have got the money to spend.

Q. I see. Then is it the operating vice-president and yourself who determine which mill shall furnish the rails?

A. Well, he, of course, consults with his subordinates, and he and I talk the matter over and decide it.

Q. That is what I meant.

A. Yes.

Q. Has Mr. Ream or Mr. Baker ever, to your knowledge, interfered, directly or indirectly, with the distribution of the

rail tonnage as between the Illinois Steel Company, which is the only mill you seem to have purchased from, and which is controlled by the Corporation, and other manufacturers or rollers of steel rails?

A. No, sir; not to my knowledge.

Q. Now, taking up some of these different items; I cannot go through them all in detail, but I will ask you about some of the items of steel products that you have mentioned. Take the matter of bridges; in what way have you let your contracts for bridges?

A. We send out inquiries with plans and specifications of bridges that are wanted.

Q. And receive bids?

A. And receive bids.

Q. And who gets the contract?

A. The lowest bidder, all things being even, provided it is a shop that can do the work.

Q. Now, taking that into account, what investigation, if any, do you at any time make to determine the ability of a shop to do work that they bid on?

A. If any new concern comes in and wants to bid on bridges, I request the bridge engineer to send one of his men to their shop and have him carefully investigate that shop and see whether they can do the class of work that is required. We would not think of taking them into consideration unless we did that.

Q. Can you give the names of some of the bridge companies that have built bridges for the C. B. & Q. within the last ten or twelve years?

A. Yes. McClintic-Marshall; Wisconsin Bridge Company.

Q. Where are they located?

A. Milwaukee. Then there is the Pennsylvania Steel Company, and the Morava Steel Company—

Q. (Interposing) The Morava Construction Company, is it not?

A. Yes; that is it.

Q. That is a Chicago concern, is it not?

A. Yes; I think so.

Q. American Bridge Company?

A. Oh, yes, the American Bridge Company. I thought you said other than the American Bridge Company.

Q. No.

A. I beg your pardon.

Q. Have the King people ever built any bridges for you?

A. Yes.

Q. Do you know the Lackawanna Bridge Company, of Buffalo?

A. Yes.

Q. Have they ever built bridges for you?

A. Yes.

Q. Do you know the Riter-Conley Company?

A. Yes.

Q. Have they ever built anything for you?

A. Yes.

Q. What have they built?

A. They have built bridges for us.

Q. Do you know the Kenwood Bridge Company, of Chicago?

A. Yes; they have built bridges for us. I think we have asked for bids from every bridge company in the United States, pretty near.

Q. How is that?

A. I think we have asked for bids from every bridge company in the United States; that is, of any note.

Q. Well, are there other bridge companies along the line of your road that have done some work for you in a small line, like the Clinton Bridge Company?

A. Yes; some of those bridge companies make overhead crossings—light bridge work. When I said every bridge company, I want to modify that. I meant within a certain radius adjacent—within a fair distance of Chicago.

Q. You have sent out general requests for bids, have you?

A. Yes, we do. We send out a great many.

Q. Has that been your practice at all times?

A. Yes, sir; ever since I have been purchasing agent, and before, also.

Q. You certainly know of your own knowledge that has been the case for eight years and five months last passed?

A. Oh, certainly.

Q. Is your tonnage in bridges a rather large tonnage, Mr. Hopkins?

A. Well, not excessively large. We buy a good many bridges. We buy them right along.

Q. It is a continuous business, is it?

A. Yes. There is an estimate put in every year of just what steel bridges they want to buy, and that is passed on. I should consider it large, yes, as compared with some other roads. I do not know just exactly what it amounts to, but that could be very easily looked up if it is necessary.

Q. Are there some years that the American Bridge Company has secured quite a large percentage of your business and other years when they have had a very small percentage?

A. Yes.

Q. Do they bid on all your big work?

A. Yes, sir.

Q. And ordinary sized bridges also?

A. Yes; as a rule they bid on everything.

Q. Do you buy nails?

A. Oh, yes.

Q. A good many nails?

A. Lots of them.

Q. And of what kinds?

A. Well, we buy wire nails and cut nails, and cement coated nails.

Q. Does the American Steel & Wire Company make cement coated nails?

A. No, sir.

Q. Do they make cut nails?

A. Yes. No; they make wire nails.

Q. They do not make cut nails?

A. No, they do not make cut nails.

Q. They only make wire nails?

A. Yes, they only make wire nails.

Q. Are these cement coated nails used interchangeably with wire nails, or are they used for different purposes?

MR. COLTON: I object on the ground that the witness has not been shown to be familiar with the facts.

By MR. SEVERANCE:

Q. If you know?

A. Cement coated nails are used principally in car repair work.

Q. Are wire nails also used for that same work?

MR. COLTON: I object to the question as leading.

By MR. SEVERANCE:

Q. You may answer.

A. Will you repeat it?

Q. Are they used for the same work? Can you use either the cement coated nails or wire nails?

A. Oh, you could, yes.

Q. Who were the makers of cement coated nails that you bought from, if you remember?

A. Well, we have bought from the Cambria people—I have forgotten just who else.

Q. Do you know a concern in Boston that makes those by the name of Pierson?

A. Oh, yes; that is so.

Q. That is a very well known concern in that line, is it not?

A. I think so, yes.

Q. From whom do you buy your cut nails?

A. We buy them from the Illinois Nail Company; may I look at a memorandum that I have made here?

Q. Yes. That was made up by yourself?

A. Made by myself, yes.

Q. To refresh your recollection?

A. Yes.

MR. COLTON: I object on the ground that it is not shown that the witness has any recollection as to what may appear on this memorandum, and he has not so testified, and it is improper, therefore, for him to use it.

MR. SEVERANCE: Just a moment. I will ask him about that.

By MR. SEVERANCE:

Q. I talked with you about these various things, did I not?

A. Yes.

Q. Did you think the matter over and make a memorandum and jot down certain things this noon?

A. Yes.

Q. By the use of that memorandum that you jotted down in that way, can you refresh your recollection and answer what I have just asked you?

A. Yes.

Q. You may use the memorandum to refresh your recollection.

MR. COLTON: I object. Just a moment.

By MR. COLTON:

Q. When did you make this memorandum?

A. This noon.

Q. From what sources?

A. From my memory.

Q. Your memory was better then than it is now?

MR. SEVERANCE: He has not said so.

By MR. COLTON:

Q. Is it?

A. I did not say so. I just jotted down these things as I thought of them.

MR. COLTON: I object to the use of the memorandum on the ground that you have not tried out the witness' memory first. You should not use a memorandum in any event until the memory of the witness has been tried out. I object further on the ground that this memorandum is improperly made, and is not such a memorandum as the witness may properly use to refresh his recollection.

MR. SEVERANCE: Now, I will ask to have the pending question read by the stenographer.

(The stenographer repeated the question referred to as follows:)

“Q. From whom do you buy your cut nails?

“A. We buy them from the Illinois Nail Company—may I look at a memorandum that I have made here?”

By MR. SEVERANCE:

Q. Now, by refreshing your recollection by the use of this memorandum that you made this noon, will you state what other companies, if any, you bought cut nails from?

A. Hibbard, Spencer, Bartlett & Company, of Chicago; H. L. Green & Company—

Q. What are they?

A. Green is a broker; Hibbard, Spencer, Bartlett & Company are a very large hardware house, jobbers.

Q. What do you mean by a broker? Whom does he represent?

A. He represented various companies. I do not know just who they were, now. He may not have called himself a broker; he had accounts.

Q. That is a trade expression, is it not, “having accounts”?

A. Yes.

Q. Are these cut nails you bought from him nails that can be used for similar purposes to those for which the wire nails are used?

A. Well, they could be, yes.

Q. Just so as to have it in the record—I do not think it has been explained—what is a cement coated nail?

A. It is a wire nail coated with a preparation to prevent it from pulling out. After you drive them in they stick better. They do not become loose.

Q. Do you use a good many of them?

A. Yes; a good many.

Q. Do you buy valves?

A. Yes, sir.

Q. For what purpose are they used?

A. Oh, they are used for very many different purposes. They are used on locomotives, and they are used for piping, and plumbing.

Q. From whom have you bought them?

A. We have bought valves from Crane; we have bought what we call the Ashton valve, and from H. B. Clow & Company of Chicago.

Q. Have you bought valves from the National Tube Company?

A. Yes, we have.

Q. What is the Ashton valve; is that the name of a company that makes valves?

A. Yes; it is the name of a company that makes valves.

Q. Where are they located, if you know?

A. In Boston.

Q. You said you bought some woven wire fence. From what concerns have you bought woven wire fencing?

A. We have bought from the American Steel & Wire Company and the Keystone people—I have forgotten just the name of that company—in Peoria.

Q. The Keystone Steel & Wire Company?

A. The Keystone Steel & Wire Company, and—I have forgotten, but there are others.

Q. Have you ever bought any wire fencing from the Youngstown Sheet & Tube Company or the Pittsburgh Steel Company, or any of those—

A. Yes, I think we have; yes, sir.

Q. From whom have you bought barbed wire?

A. We have bought barbed wire from Hibbard, Spencer, Bartlett & Company and from the American Steel & Wire Company.

Q. You also spoke of telegraph wire. What do you use telegraph wire for? You do not telegraph, do you?

A. We use that for telephone wire, and for wires in interlocking plants—various purposes. Most of our dispatching is done by telephone, and we have our own wires strung on the Western Union poles.

Q. Are your requirements of telegraph wire, then, rather large?

A. Yes; fairly so. We use quite a good deal of it.

Q. From what concerns have you bought telegraph wire?

A. We have bought it from the Western Electric Com-

pany and the American Steel & Wire Company. We buy it from Roebling's. Of course, there are a lot more that I cannot remember offhand.

Q. There are a number of Chicago concerns that you have bought it from?

A. Yes; the Central Electric.

Q. That is a Chicago company?

A. Yes. I named the Western Electric, didn't I?

Q. You named the Western Electric, yes.

A. Well, there are a good many of them; I cannot recall them offhand.

Q. There are a great many concerns and you do not remember them now.

A. No.

Q. From whom have you bought insulated wire?

A. We have bought insulated wire from the Central Electric, from the Kerite Company, from the Western Electric and some from the American Steel & Wire Company.

Q. What is this Kerite? That is the Kerite Insulated Wire & Cable Company of New York?

A. Yes.

Q. What is Kerite?

A. It is considered a very fine insulated wire; it ranks with what is called Okonite wire. For instance, if you were going to wire a building like this, or where you wanted to use a high-grade wire, those two wires are considered very good, both of them.

Q. Do you buy a good deal of that?

A. We buy a good deal of Okonite wire; we buy more Okonite wire than any other kind of insulated wire on that quality.

Q. Whom do you buy that from?

A. The Central Electric Company.

Q. Now, what kind of insulated wire do you buy from the American Steel & Wire Company?

A. Well, we have bought some—we buy a wire of not quite as good a grade; that is, we do not consider it as good a grade as these other two. When we buy insulated wire

from them we can use it where we would not want to go to the expense of using the higher priced wire.

Q. That can be used for the same purpose as the Kerite and the Okonite?

A. The American Steel & Wire Company have an insulated wire that they think is as good as Okonite and Kerite, but we don't think so.

Q. Are they sold in competition with each other in the market?

A. Yes.

Q. Take this telegraph wire; are there different classes of that or is it all about the same thing, if you know?

MR. COLTON: I object to that on the ground that the witness is not shown to be qualified to answer.

(The question was repeated by the stenographer.)

THE WITNESS: It is all about the same.

By MR. SEVERANCE:

Q. You mentioned railroad spikes. Do you purchase spikes with rails ordinarily, or do you buy them separate from the rails?

A. We buy them separately.

Q. From what concerns do you buy your spikes?

A. The Illinois Steel Company, the Inland Steel Company and the Colorado Fuel & Iron Company.

Q. Have you bought any spikes from anybody in the Pittsburgh district?

A. We have, yes.

Q. From whom?

A. We have bought spikes from Jones & Laughlin; not recently.

Q. You use a good many bolts, don't you?

A. Yes.

Q. Do you use iron or steel bolts?

A. We use very few steel bolts; practically all iron.

Q. What is the reason for that?

A. We think the iron bolt is the best.

Q. They are used for similar purposes, are they?

A. Yes, track bolts largely. I presume you have reference to track bolts?

Q. Yes; they are used for similar purposes, iron and steel, used interchangeably, are they?

A. Yes.

Q. They are sold in competition with each other?

A. Yes.

Q. From whom do you make the bulk of your purchases of bolts?

A. From the Lake Erie Iron Company of Cleveland and the American Iron & Steel Company of Lebanon, Pennsylvania.

Q. Do you buy steel bolts from any of the subsidiaries of the Steel Corporation?

A. We bought a few steel bolts from the Illinois Steel Company. They are a certain sized bolt that our engineering department are willing to use, a smaller sized bolt. We buy steel bolts.

Q. Do you buy steel bolts from anybody else?

A. Well, we haven't for some time.

Q. Do you buy iron bolts from other people than the two concerns you named from whom you got your principal supply?

A. Not often.

Q. Which are cheaper, the iron or steel?

A. Steel.

(Whereupon an adjournment was taken until to-morrow, Wednesday, December 3, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-THIRD DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Wednesday, December 3, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE and MR. BOLLING.

LAMBERT N. HOPKINS,
the witness under examination at the taking of adjournment,
resumed the stand.

DIRECT EXAMINATION (Continued)

By MR. SEVERANCE:

Q. You testified yesterday relative to purchases of rails and other things, as to the manner in which they were made, and that they were under your charge. Have you an explanation that you want to make with reference to that statement?

A. Yes. On thinking that over I would like to modify what I said. I have known the president to place the order for rails.

Q. Is that usual or unusual?

A. That is rather unusual. Also I would like to state that, on occasions, he buys equipment, places an order for equipment such as cars or locomotives.

Q. Is that unusual?

A. Rather unusual; yes, sir. It is usually done by me.

Q. On these occasions when the president has placed an order for rails or equipment, has that been done after talking with you, or have you been consulted?

A. No.

Q. He has done that?

A. He has done that and talked to me afterwards.

Q. And you make the contract?

A. I arrange all the details of the contract, and he signs the contract for rail and equipment. That is the rule of the company.

Q. How is that in the ordinary course, where you make the purchase?

A. I O. K. it and he signs it. That is the rule of the company.

Q. Except for that modification your testimony as given yesterday with reference to your control of the purchases is correct, is it?

A. Yes, sir.

Q. I overlooked, in asking you about the nail purchases yesterday, as I see by the record, the matter of your purchase of supplies of common nails. You testified in reference to cut nails and cement coated nails, but I did not ask you from whom you purchased common wire nails.

A. We buy them from Hibbard, Spencer and Bartlett, the Illinois Nail Company—

Q. Do you buy them from the American Steel & Wire Company?

A. From the American Steel & Wire Company.

Q. From whom, if you can recall, have you made purchases of steel plates and structural steel?

A. Jones & Laughlin, Cambria, Inland Steel Company, Ryerson and various others that I do not recall right now.

Q. Have you ever bought anything from either Worth or Lukens at Coatesville?

A. I have bought from Worth.

Q. You have bought plates from Worth?

A. Yes, sir.

Q. Ryerson is a jobber, is he not?

A. Yes, sir.

Q. Have you made any purchases from the Allegheny Steel, of plates, or do you remember?

A. I do not remember.

Q. Are you now attempting to give a full list, or only such as you recall?

A. Just such as I recall. It would be impossible for me to give the full list, Mr. Severance, offhand.

Q. Have you ever bought any structural from the Phoenix Iron Company, or do you remember?

A. I do not recall whether I have or not.

Q. From what different concerns have you bought steel axles, as far as you can remember?

A. From Block, Pollock & Company, of Cincinnati, the Standard Forging Company, the Standard Steel Works, Cambria, and the Carbon Steel Company.

Q. Have you bought from Carnegie some axles?

A. I think so.

Q. Or from the Illinois Steel Company—either one?

A. Yes, we have.

Q. Did you ever buy any of Willard Sons & Bell, of Chicago?

A. Oh, yes; Willard Sons & Bell, of Chicago; I overlooked them. Yes, we have.

Q. Is that a rather important firm in that line of business, or not?

A. Yes; they are quite an important firm in the axle business.

Q. Have you ever bought any axles from Bethlehem?

A. I think so; yes, sir.

Q. You are not sure about that?

A. I am not positive about that.

Q. Is or is not the axle business a highly competitive one?

MR. COLTON: I object to that on the ground that it calls for a conclusion based upon a state of facts not disclosed to the court.

MR. SEVERANCE: You may answer.

THE WITNESS: Will you ask that question again, please?

By MR. SEVERANCE:

Q. Yes. I asked you whether or not that is a highly competitive line.

A. Yes, sir.

Q. From whom do you buy boiler tubes?

A. The National Tube Company; Detroit Seamless Tube

Company, and the Globe Seamless Tube Company, of Milwaukee. We have bought iron tubes from the Parkesburg Iron & Steel Company, I think it is.

Q. The Parkesburg Iron Company, I think, is the proper name, if I remember right.

A. Yes, I think that is right; and from George E. Molleson & Company, who are agents for the Tyler Tube Company. They are in New York here.

Q. Do you remember any others, Mr. Hopkins, now?

A. The National Tube Company.

Q. Yes, but you mentioned them. I say, do you recall any others, outside of the ones you have named?

A. No.

Q. Is that a complete list, or do you think it is not a complete list?

A. Well, there may be others; I do not remember now.

Q. You do not recall any others?

A. No.

Q. From whom have you bought steel pipe and fittings?

A. Well, we have bought from the Crane Company and George B. Limbert.

Q. Did you ever buy any from Clow, out there in Chicago?

A. Oh, yes, Clow; yes, sir.

Q. That is a large concern, is it?

A. Yes, that is a large concern. I forgot about that.

Q. By the way, speaking of fittings and that sort of thing, is the Crane Company a large or small factor in that business?

A. Very large.

Q. Do you buy turn tables?

A. Yes, we do.

Q. Do you remember any people from whom you have bought turn tables?

A. Well, we have bought them from the American Bridge Company, and the King Company, I think; Chicago Bridge & Iron Works. I do not remember any others now.

Q. And others?

A. And others; yes, sir.

Q. You have sent out general inquiries on that, have you?

A. Yes, we have sent out general inquiries.

Q. Where do you buy your tie plates?

A. From the Illinois Steel Company; Inland Steel Company; Interstate Iron & Steel Company; Sellers Manufacturing Company, of Chicago. The last two are iron plates.

Q. How is that?

A. The last two mentioned firms make——

Q. Iron plates?

A. Yes; that is, the Interstate and Sellers, if they were the last two I mentioned.

Q. Did you ever buy any tie plates from Dilworth-Porter, of Pittsburgh?

A. We have; a few.

Q. What do they make? Iron or steel?

A. Steel.

Q. Do you remember the names of some of the concerns that you have bought steel sheets, black or galvanized sheets, from?

A. Yes; Hibbard, Spencer, Bartlett; Ryerson; Inland Steel Company. Then there is an agent in Chicago, Theodore Geissmann, of Chicago. We have bought through him also, and there are many others.

Q. Do you ever buy from the American Sheet & Tin Plate Company?

A. Oh, yes.

Q. Have you bought sheets from a good many different people?

A. Yes; we have sent out inquiries broadcast for them.

Q. What has been the general policy of the Burlington Road as to inviting extensive competition in the steel products that you have to purchase?

A. It has always been our policy, sir, to invite competition.

Q. Rather broad competition?

A. Yes; broad competition. We believe in it absolutely.

Q. Could you give any estimate, Mr. Hopkins, of about how large a percentage of your steel requirements have been bought from subsidiaries of the United States Steel Corporation during the time you have been purchasing agent?

A. Can I give an estimate?

Q. Yes.

A. Oh, I should say—does that include rails?

Q. Yes, include everything.

A. I should say 50 to 60 per cent.

Q. Now, suppose you exclude rails.

A. Well, I do not know that that would alter my estimate very much, for the reason that our rail orders are divided, as I have testified, between the Illinois Steel Company and the Colorado Fuel & Iron Company. Sometimes one gets a little more than the other, but not often.

Q. So you think that would be about a fair estimate of the total?

A. Yes, sir; I think that would be a fair estimate.

Q. Outside of the Illinois Steel, the Colorado Fuel & Iron and the Inland Steel Company, are there any large steel mills located adjacent to your rails—contiguous to them?

MR. COLTON: I object to the form of the question on the ground it implies that the Inland is a large company.

MR. SEVERANCE: Well, if you will go and look at it I think you will think it is. You may answer, Mr. Hopkins.

THE WITNESS: The Illinois Steel, Colorado Fuel & Iron and the Inland—

By MR. SEVERANCE:

Q. (Interposing) Yes; I say, are there any other large mills? There are other steel plants, but—

A. No; no very large ones.

Q. You do not reach the Pittsburgh district, or you do not reach the Ohio district?

A. No; there are no very large ones that I can recall now.

Q. The others are smaller?

A. As I recall now the others are smaller.

Q. And your requirements, in so far as they are furnished by the Illinois Steel Company, come from the Gary plant as well as from the old plants of the Illinois Steel Company?

A. Yes.

Q. Do you buy any tin plate? I forgot to ask you about that.

A. Yes, we do buy some.

Q. That is not a very large item with you?

A. Not very large.

Q. Where have you purchased your tin plate?

A. We buy it from Hibbard, Spencer and Bartlett, and I recall a firm in Philadelphia, I believe, Merchant and Evans.

Q. Do you buy any from the American Sheet & Tin Plate Company?

A. Yes; we buy from them also. I do not know why I left them out.

Q. You thought I was asking about outside of them?

A. Yes.

Q. Do you ever buy any from N. & G. Taylor, the old style?

A. Yes, sir.

Q. Does the testimony you have given as to other classes of products, relative to competition, apply to tin plate also?

A. Yes.

MR. SEVERANCE: I think you may examine, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. Is Mr. Darius Miller president of your company?

A. Yes.

Q. His predecessor was George B. Harris?

A. George B. Harris, yes, sir.

MR. SEVERANCE: He is chairman of the board, Mr. Harris?

THE WITNESS: Mr. Harris is still chairman of the board.

By MR. COLTON:

Q. You spoke of buying rails on standard specification, both open hearth and standard Bessemer; is that correct?

A. Yes.

Q. There is a differential between open hearth and standard Bessemer of how much?

A. Two dollars a ton.

Q. Has that been the differential throughout the period with which you have been connected with the purchases?

A. Yes.

Q. Now, in the year 1905, at what time did you become purchasing agent?

A. July 1.

Q. When you became purchasing agent in 1905 had the rail order for the year 1905 already been issued?

A. Yes.

Q. You had nothing to do with issuing that order?

A. No.

Q. Did you have anything to do with the fulfilling of that order. Did that come through your department at all?

A. What do you mean by that?

Q. I mean, after a contract has been placed do you have any knowledge of the deliveries made?

A. Oh, yes.

... Q. With what companies, then, was the order for 1905 placed for rails?

A. My recollection is that it was the Illinois Steel Company. That is a long time ago.

Q. Now, for 1906 with what companies was the rail order placed?

A. My recollection is that it was with the Illinois Steel and the Colorado Fuel & Iron Company.

Q. What was the proportion between those companies in the year 1905?

A. I have no recollection.

Q. You have no recollection of the proportion between those companies?

A. No, I don't remember what it was; I would not attempt to carry those things in my head for that length of time.

Q. Do you know who placed that order in the year 1906?

A. No, sir; I do not.

Q. Now, in 1907 with what different companies did you place your rail orders?

A. With the same two companies; that is my recollection now.

Q. Do you know who placed the order for 1907?

A. No, sir.

Q. Do you know the proportions as between those two companies?

A. No, sir; I do not.

Q. Can you not approximate the proportion that was given to the Illinois Steel Company for that year?

A. No; I do not care to make a statement of that kind because it is too far back for me to recollect.

Q. Now, in 1908 your purchase of rails was very small, was it not?

A. I do not remember now what it was.

Q. What different companies did you place your rail order with in 1908?

A. As far as my recollection goes it was with the same two companies. We possibly may have got some rails from some of the eastern companies; I do not remember.

Q. Who placed that order?

A. I cannot answer that question.

Q. Will you give the proportion, if you can, for the year 1908, between the Illinois Company and the Colorado Company?

A. No, I cannot.

Q. Approximately?

A. I do not remember the amount we bought at the time, so I could not tell you; but this much I will say, that it was approximately divided up very near equal between the two companies.

Q. Do you recall that now as a matter of recollection for 1908, or is that based on a general impression extending over the whole period of time?

A. That has been the general rule.

Q. Could you state as a matter of recollection that the Illinois Company had not received for a majority of the years at least 60 per cent. of the rail purchases?

A. That is my recollection, that they have not received that.

Q. How near to the 60 per cent. is it that they have received?

A. Well, it may have been 50 per cent., may have been 45 per cent. and it may have been 55 per cent.

Q. Can you give the tonnages for any year that were placed with the Illinois Company?

A. I can give it for this year.

Q. Give it for 1913.

A. 30,000 tons.

Q. Was that placed at one time with the Illinois Company?

A. My recollection is that we placed 25,000 tons, and added 5,000 tons afterwards.

Q. At what time of the year?

A. I have forgotten just when it was.

Q. Was any other order given at that time?

A. With the Colorado Fuel & Iron Company.

Q. For what tonnage?

A. 30,000 tons.

Q. Was there any other order placed at that time?

A. Yes; we got 5,000 tons from the Lackawanna.

Q. That you spoke of as an experiment on your part?

A. Yes.

Q. In 1909 with what different companies did you place your rail orders?

A. My recollection is that we placed them with the Illinois Steel and the Colorado Fuel & Iron Company. Whether we bought any in the east or not, I do not recall.

Q. Can you give the proportion in that year?

A. No, sir; I can not.

Q. Can you give the tonnage for that year?

A. No, sir; I can not.

Q. Can you state who placed that particular order for that year?

A. No, sir; I can not.

Q. Take the year 1910: with what companies did your company place its orders?

A. With the same two companies. That is my recollection now.

Q. Can you give the proportion between those two companies?

A. No, sir; I can not.

Q. Can you give the tonnage?

A. No, sir.

Q. Can you now, as a matter of recollection, state who placed that order or those orders?

A. No, sir; I can not, but I think I did. I do not recollect whether I did or not.

Q. The president may have done it?

A. He may have done it; yes.

Q. When you had anything to do with the placing of the order, and when the order was not placed by the president, just what was your connection with that order, and with what officials did you consult?

A. The president authorized the purchase of a certain amount of rail, and I consulted with the operating vice-president as to the distribution of the rail.

Q. You consulted with the operating vice-president as to the distribution of the rail tonnage?

A. Yes, sir.

Q. And you two together, then, distributed the tonnage, as nearly as you can recollect, about the same as it had been distributed in the past?

A. Approximately so; yes, sir.

Q. And then it came up to the president and he finally approved and assigned the contracts to the different mills, did he not?

A. Yes, sir.

Q. You and the vice-president on such occasions indicated the mills to which the tonnage was to be given by the company and the president had the final placing of the order; is that correct?

A. No, sir; he signed the contract. The president left that to the vice-president and me. The rules of the company are that the president shall sign contracts for rails and new equipment, as I stated before, but I attend to all the details and I O. K. the contract as to price and so forth, and he signs it.

Q. The vice-president is your superior officer, is he not?

A. Yes.

Q. On the other occasions, when the president makes the contracts and assigns the tonnage among the different mills, do you have anything to do with it, other than just carrying out the details?

A. No; nothing more than that.

Q. In 1911 with what different companies did your company place its rail orders?

A. My former answers cover that, sir.

Q. Do you recollect the proportion between those different companies?

A. No, I do not; not the exact proportion.

Q. Do you recollect who made the contract for that year?

A. No, sir.

Q. Take the year 1912: with what companies was the contract placed?

A. With the Illinois Steel and the Colorado Fuel & Iron Company, as I have stated before.

Q. Do you recollect the tonnage for 1912?

A. Approximately I do, because it was a very large tonnage. That is, I am pretty sure it was in 1912 that we bought about 90,000 tons of rails.

Q. How much of that did you give to the Colorado Fuel & Iron Company and how much to the Illinois Steel Company?

A. That I can not remember.

Q. Can you not give approximately the tonnage that was given to the Illinois Company in the year 1912, Mr. Hopkins?

A. I do not care to make a statement of that kind unless I am positively sure of what I am saying. They got a fair proportion of it. There is no question about that.

Q. Who made the contract for the year 1912?

A. I don't remember now whether I did or whether the president did.

Q. In respect to bridges, you stated that whenever a new company made a bid on work you sent an engineer to look over the shop to see whether it was capable of turning out the work in question, did you not?

A. If I said "made a bid" I should not have said so. I should have said when they asked to be allowed to bid. That was what I intended to say, and the idea I intended to convey.

Q. I was not attempting to quote your exact language.

MR. SEVERANCE: I think that is what he did say, Mr. Colton.

THE WITNESS: That was the idea I intended to convey. I then requested the bridge engineer to send some one to look over those shops, to see whether they were equipped to do the class of work we want.

By MR. COLTON :

Q. Do you know anything about the kind of equipment that is required from the point of view of tonnage to be turned out?

A. Personally?

Q. Or the character of the machinery?

A. No, sir.

Q. How long has it been since you had any one sent to any of the mills of the American Bridge Company?

A. I can not answer that question. Not since I have been purchasing agent.

Q. Can you give the tonnage of bridge material or bridges that were ordered in the year 1911?

A. No, sir; I can not.

Q. Can you give the percentage that was given to the American Bridge Company?

A. In 1911?

Q. Yes.

A. No, sir; I can not answer those questions offhand. I would have to refer to my records.

Q. Can you give the percentage for any year from 1905 to 1913, inclusive?

A. To the American Bridge Company?

Q. That the American Bridge Company received of the total bridge business.

A. I might, approximately, yes.

Q. Well, take it up year by year. As to 1905—

A. I can not do it year by year; no, sir.

Q. Can you do it for any one of the years from 1905 to 1913, inclusive?

A. I frequently have statements made up in my office, and I have the recollection of having a statement made up of bridge material, and the tonnage varied, I think, anywhere from 10 per cent. to—oh, we will say 75, perhaps.

Q. In the year 1912, can you tell what percentage you got from the American Bridge Company? You do not know whether it was 75 per cent. or 10 per cent.?

A. Oh, I know it was not 75 per cent., and I know it was

greater than ten in that year, but as to exactly what it was, I do not know.

Q. Have you any recollection as to the figures for 1912?

A. No, sir.

Q. For the year 1913?

A. No, sir.

Q. For what purposes do you use cut nails?

A. Oh, they are used for a great many different purposes.

MR. COLTON: Will you read the question.

(The question and answer were read by the stenographer.)

By MR. COLTON:

Q. You are speaking of use by your company?

A. Yes, sir.

Q. That is what I mean. Would you give some of them?

A. Well, they can be used in building work.

Q. Does your company use them in building work?

A. We do a lot of station work, yes, and buildings of that kind.

Q. I asked you did you use cut nails in that?

A. I think they do, sir, yes.

Q. Do you know?

A. Positively, no, I do not know. I do not know just the exact purposes for which all these nails are used, only in a general way.

Q. Cement coated nails, for what purpose, if you know, does your company use cement coated nails?

A. They are used largely in car repair work.

Q. That is the only purpose you know of?

A. They may be used for other purposes, sir.

Q. But you do not know that as a matter of your own knowledge?

A. No, I do not.

Q. Now, you buy what are known as common nails or standard nails, in addition to cut nails and cement coated nails, do you not?

A. You mean wire nails?

Q. Yes, wire nails.

A. Yes, we buy wire nails.

Q. Do you know or can you state from knowledge for any year the percentage of common wire nails that you have gotten from the American Steel & Wire Company?

A. No, sir; I cannot.

Q. Can you give the approximate tonnage that you bought of common wire nails in any one year?

A. No, sir; I cannot.

Q. Can you give the approximate tonnage you got from the American Steel & Wire Company in any one year?

A. No, sir.

Q. Can you state the prevailing price for common wire nails for any year?

A. No, sir; I do not attempt to carry the prices in my head at all.

Q. Take the year 1905 in common wire nails; from what different companies did you solicit their bids for your common wire nail purchases?

A. I cannot answer that question, sir.

Q. 1906?

A. I cannot answer.

Q. 1907?

A. The same.

Q. 1908?

A. The same answer. We solicit bids from all of these companies.

Q. I want to know from what companies you solicited bids that you can now state that you did it, as a matter of recollection?

A. I could not do that unless I looked up my records. I could not state that positively.

Q. Did you solicit the bids yourself for common wire nails, or was that done by your subordinates?

A. Why, it is done under my supervision, of course, but I do not actually buy everything. I have an assistant. I have three men in my office who do a great deal of buying, but it is passed upon by me.

Q. Take the year 1906, the assistants that you have who do a great deal of the buying, do they take bids and solicit prices, and then make a recommendation, and put it up to you?

A. The inquiries are sent out by them or by one of the clerks in the office, with my approval.

Q. Now, before those inquiries are sent out for common wire nails, are they submitted to you—the inquiries?

A. Not always, no.

Q. Are they submitted to you in the form that they are returned to your various assistants?

A. Yes.

Q. In the precise form?

A. Yes, sir.

Q. Can you recollect for the year 1906 that for all purchases of common wire nails the inquiries were submitted to you by your various assistants?

A. I cannot say offhand. There may have been times when they were not. As a general rule, they were.

Q. At times your assistants had authority to make certain purchases, did they not?

A. If I was not there, yes.

Q. Well, if you were there?

A. It depended on circumstances. If I was very busy and it was necessary to close a deal, my assistant purchasing agent would close it. Nobody else——

Q. (Interposing) Your assistant purchasing agent is a man in whom you repose a great deal of confidence?

A. Yes, sir.

Q. And in certain matters of purchases he has large discretion?

A. He refers practically everything to me before any deal is closed.

Q. And no matter how small it may be?

A. Oh, no, I will not say that. There may be some small matter—I am speaking in a general way of large purchases; something that amounts to something.

Q. Do you undertake to say whether the tonnage in common wire nails in 1906 was small or large?

A. No, I cannot answer that question.

Q. Can you answer that for any of the years as regards common wire nails?

A. No; not offhand.

Q. You have no recollection now as to the variation in prices bid by the manufacturers of common wire nails in the year 1906, have you?

A. No, sir.

Q. Is the same true of each year?

A. Yes; I do not attempt to carry prices in my head. We do a large business, sometimes \$30,000,000 a year, and I would not attempt for a moment to burden my mind with a thing of that kind; I could not.

Q. Do you purchase \$30,000,000 of steel products a year, do you mean?

A. No, I am talking about everything that passes through me.

Q. It all passes through you?

A. It all passes over my desk in one way or another; fuel, rail, ties.

Q. And timber?

MR. SEVERANCE: Yes; he said "ties."

THE WITNESS: Yes, and lumber of all kinds.

By MR. COLTON:

Q. That constitutes a very large proportion of your purchases?

A. We buy a great deal of lumber. We have bought as high as 60,000,000 or 70,000,000 feet of lumber in a year.

Q. Could you name the different companies from whom you took bids for any of the years on common wire nails?

A. I would not attempt to.

Q. Take plates: do you buy tank plates as well as boiler plates?

A. Yes.

Q. What percentage of your purchases are tank plates?

A. I couldn't answer that question, sir.

Q. Can you approximate the percentage that is tank and the percentage that is boiler plate?

A. No, sir; I could not.

Q. Now, in the year 1906, have you any recollection as to the extent to which the various manufacturers of tank plates quoted on any occasions uniform prices or varying prices, or

the extent to which they varied, or the number that quoted the same price on a given bid?

A. I do not know that anybody quoted the same price in 1906 on any given bid.

Q. You have no recollection on the subject, have you?

A. No, sir; I could not answer that question for any specific year.

(The question was repeated by the stenographer.)

THE WITNESS: There are a lot of questions there all in one. No, I could not answer that question.

By MR. COLTON:

Q. For 1907 would your answer be the same?

A. Yes.

Q. For 1908?

A. Yes.

Q. And for 1909?

A. Yes.

Q. If you do not understand the question I will have it reread, or can you answer any part of that question?

A. As I understand your question you have asked me whether I know for any particular year whether certain industries bid on tank plates; is that right?

Q. Yes.

A. Bid the same price?

Q. That was one of the questions.

MR. SEVERANCE: Or if they varied, and the extent of the variation.

THE WITNESS: Or if they varied, and the extent of the variation. No, I can not answer that for any particular year.

By MR. COLTON:

Q. What is the first year as to which you now remember as a matter of recollection, a variation between any manufacturers on tank plates?

A. I can not answer that question.

Q. You have no recollection on the subject one way or the other?

A. I have no recollection of the time.

Q. You do not now recollect whether that occurred in any year or not?

MR. SEVERANCE: Whether what occurred?

By MR. COLTON:

Q. You said you had no recollection of the time; what did you mean by that?

A. Of any particular time.

Q. Nor of any particular years?

A. Yes.

Q. You mean that you do not recollect?

MR. SEVERANCE: Let us understand just what you are asking him, Mr. Colton. Will you kindly tell what that last question of your refers to?

MR. DICKINSON: This is as to his answer "yes," as to whether he had or had not any recollection of these various things.

MR. COLTON: He answered "yes," and it should be "no." I think.

MR. SEVERANCE: Let us have the original question read.

(The original question was repeated by the stenographer as follows:)

"Q. Now, in the year 1906, have you any recollection as to the extent to which the various manufacturers of tank plates quoted on any occasions uniform prices or varying prices, or the extent to which they varied, or the number that quoted the same price on a given bid?"

MR. SEVERANCE: That question as put to him involved four or five or six things, and you evidently asked him whether he had any distinct recollection of any of those matters, and he said "no." That is as I understand the testimony; I may be wrong. Is not that the fact?

THE WITNESS: I want to say that I have no recollection of that having occurred in any particular year. You have not asked me whether I knew that ever occurred. I want to be perfectly plain. I do not want to say anything that is not exactly right, and as I understand it, you have not asked me that question.

By MR. COLTON :

Q. If you now remember that it occurred at any time, state the time as nearly as you can recall it, and the parties.

MR. SEVERANCE: As to what occurred?

MR. COLTON: Uniformity of prices among certain of the bidders on tank plates.

THE WITNESS: My recollection now is that that has occurred. When and who the parties were I could not say.

By MR. COLTON :

Q. And you can not now state as to how often that occurred in the year 1906?

A. I could not state that for any year.

Q. Would your answers be the same as regards boiler plate, the answers that you have just made in reference to tank plate?

A. No, because I have no recollection about boiler plate.

Q. Would you explain that answer that you have no recollection about boiler plate?

A. I have no recollection of there being any uniformity of price.

Q. Do you have any recollection on the subject one way or the other?

A. What do you mean exactly by that?

Q. I mean have you any recollection as to whether or not there were times when boiler plate manufacturers agreed as to price?

A. I don't know whether they agreed as to price or not.

Q. I mean whether the prices given to you agreed or not; have you any recollection on that subject?

A. No, I have not, as to boiler plates.

MR. COLTON: I do not know that you understand the question yet. Did you understand the question?

MR. SEVERANCE: Let the questions and answers be read.

(The stenographer read as follows:)

“Q. And you cannot now state as to how often that occurred in the year 1906?

“A. I could not state that for any year.

“Q. Would your answers be the same as regards boiler plate, the answers that you have just made in reference to tank plate?

“A. No, because I have no recollection about boiler plate.

“Q. Would you explain that answer, that you have no recollection about boiler plate?

“A. I have no recollection of there being any uniformity of price.

“Q. Do you have any recollection on the subject one way or the other?

“A. What do you mean exactly by that?

“Q. I mean, have you any recollection as to whether or not there were times when boiler plate manufacturers agreed as to price?

“A. I do not know whether they agreed as to price or not.

“Q. I mean, whether the prices given to you agreed or not; have you any recollection on that subject?

“A. No, I have not, as to boiler plates.”

By MR. COLTON:

Q. Do you understand the question?

A. Yes.

Q. Do you want to add anything to your answer?

MR. SEVERANCE: It is all right. I understand it now. I did not catch it.

THE WITNESS: As I stated, I do not remember about that.

By MR. COLTON:

Q. Now, take tie plates: Do you know what per cent. of tie plates you bought from the Illinois Steel Company?

A. For any given period?

Q. For the entire period, if you have any approximate estimate of it.

A. Approximately 33 1-3 per cent.

Q. Do you know what it was in 1906?

A. No, sir.

Q. Is there any other company from whom you have purchased as large a proportion of your tie plates as from the Illinois Company?

A. Yes, sir.

Q. What was it?

A. The Inland Steel Company; and we have purchased from the Interstate Iron & Steel Company.

Q. Not as large a proportion from both of those, have you?

A. I did not say at the same time.

Q. Oh, at times?

A. At times; and also from the Sellers Manufacturing Company.

Q. Suppose we take it by years, if you can?

A. I cannot give you that by years.

Q. You cannot give it approximately for any year?

A. Approximately, yes. Possibly I could, but not too far back.

Q. We will try it, and see how far back you can go. In 1906, can you state approximately how much of your tie plates you gave to the Illinois Company?

A. No, sir; I cannot. I do not know that we gave them any.

Q. 1907?

A. No.

Q. 1908?

A. No.

Q. 1909?

A. No.

Q. 1910?

A. No.

Q. 1911?

A. I want to say that I think we have given them about
33 1-3 per cent.

Q. Now we are taking it by years. 1912?

A. I think I can safely say 33 1-3 per cent. for 1912.

Q. For 1912 what other company did you give as much as
33 per cent.?

A. The Interstate Iron & Steel Company.

Q. Did you give them 33 per cent. or more than 33 per cent.?

A. I have forgotten now how much we did give them.

Q. What were the other companies you gave your tie plate contracts to?

A. In 1912?

Q. Yes.

A. I don't remember now.

Q. In 1913?

A. In 1913 I can come pretty close to it. We gave them to the Illinois Steel and the Inland. I should say they got about 33 1-3 per cent. each.

Q. And the rest was given——

A. We divided the rest up between the Sellers Manufacturing Company and the Interstate Iron & Steel Company.

Q. Did all those companies bid on your tie plates for 1913?

A. I asked them all for prices, yes, sir.

Q. Were all those contracts let at different prices or at the same price?

A. The first contracts were let to the Illinois Steel and the Inland at the same price, and then I found we did not have enough, and I had to pay a little more to the other companies.

Q. In 1912 do you now recollect whether the contracts that were let to the Inland and Illinois Companies were made at the same price or not?

A. I cannot say, no.

Q. At the time the purchases were negotiated of which you gave 33 1-3 per cent. to the Inland and 33 1-3 per cent. to the Illinois at the same price, can you give, as to any of the other companies, their bids on those particular occasions?

A. Can I do what?

Q. Can you give their bids on those particular purchases?

A. Yes; their bids were, I think, about a dollar a ton higher, or something like that.

Q. Who were those two?

A. The Interstate Iron & Steel Company and the Sellers Manufacturing Company.

Q. That is what I had understood you to say, that there were but two others that bid on that.

A. Those were the only ones.

Q. In 1912 can you now state, as a matter of recollection, what companies bid on tie plates?

A. All four of those companies, yes; that is my recollection.

Q. Did you make that all at one purchase?

A. In 1912?

Q. Yes.

A. I don't remember now whether I did or not.

Q. In tie plates do you usually make most of your purchases at one time?

A. We usually make a contract for the whole of that at one time.

Q. You sort of calculate out your needs?

A. I get an estimate from the operating department as to how many they want. They give me approximately what they want and I make the contract elastic, with a minimum and a maximum.

Q. About what time of the year is that?

A. About this time. Last year I made it in September.

Q. Have you placed any contract yet for the following year?

A. No, sir.

Q. In 1912 can you give the bids of the different companies?

A. No, sir; I cannot; not offhand.

Q. Do you now recollect the relations of those different bids to each other?

A. No, sir.

Q. How many different companies did you distribute your tonnage among in the year 1912?

A. I would like to modify my last answer. Will you ask me that question again?

(The stenographer read the question referred to as follows:)

“Q. Do you now recollect the relations of those different bids to each other?”

THE WITNESS: I will say that as far as my recollection goes I did not pay one any more than the other.

By MR. COLTON:

Q. That is, they were at the same price, so far as you recall?

A. Yes.

Q. Was that the same for 1911?

A. I cannot answer that question, but I think probably it was.

Q. And you do not know what the original bids of the companies were in 1912?

A. No, sir; I do not.

Q. And you don't know what the relation of the prices on the original bids was, if there were more than one in 1912?

A. No, sir; I cannot recall that.

Q. Would your answer be the same for the Inland Company for 1913,—the Inland and the Illinois Steel Company,—as to what their original bids were, as to whether they were the same or not in the original bid?

A. I don't recollect whether they were or not.

Q. What tonnage do you buy of tie plates?

A. Oh, it varies from 10,000 to 15,000 tons.

Q. That is one of the largest items outside of rails, is it not?

A. It is quite a large item, yes. The use of tie plates is increasing very much in late years.

Q. Are angle bars and splice bars the same thing?

A. Yes, sir.

Q. From what different companies do you purchase angle bars and splice bars?

A. The Illinois Company and the Colorado Fuel & Iron Company.

Q. How have you distributed your tonnage between those two different companies?

A. According to the amount of rails that they got.

Q. About the same relation as rails?

A. Yes, sir.

Q. And you bought exclusively from those two companies in angle and splice bars?

A. Yes, sir.

Q. Were those let at the same prices or at different prices?

A. There was a shade of difference last year.

Q. Well, prior to last year?

A. Prior to last year, my recollection is they were the same. I will not say, though, positively. That is my recollec-

tion. Angle bars generally follow rail. They are about the same price.

Q. As I understood it, to the best of your recollection prior to last year the prices on angle bars and splice bars were the same for the Illinois as they were for the Colorado; is that correct?

A. I think they were; yes, sir, as far as I can recollect.

Q. This last year there has been a shade of difference?

A. They was a slight difference.

Q. Do you know what the difference was, per ton?

A. Well, it was very small. My recollection now is it was about two cents a hundredweight. It did not amount to anything.

Q. Which one had the lower price?

A. The Colorado Fuel & Iron Company.

MR. SEVERANCE: Let me ask: Are those sold by the long or short ton?

THE WITNESS: Why, they are sold at so much a hundredweight.

MR. SEVERANCE: So much a hundredweight?

THE WITNESS: They are not sold by the ton.

By MR. COLTON:

Q. Did you get bids for any of the years from 1905 to 1912, inclusive, from any other companies than the Colorado Company and the Illinois Company on angle bars and splice bars?

A. I do not recollect that we did, sir.

Q. From what companies have you bought your spikes?

A. Well, we have bought spikes from the Illinois Steel Company and the Colorado Fuel & Iron Company. We have bought spikes from the Inland Steel Company.

Q. In 1906, with what different companies did you place your orders for spikes?

A. I can not answer that.

Q. Do you recollect whether you gave any order for spikes to the Illinois Company in 1906?

A. I presume we did; we usually did.

Q. Do you recollect that you gave any order to the Colorado Company in that year for spikes?

A. No, I do not.

Q. Or the Inland Company?

A. No, I do not recollect as to that.

Q. Now, take the year 1907; did you give any order to the Illinois Company for that year?

A. I think so; yes.

Q. Do you recollect whether you gave any order to the Colorado Company?

A. 1907?

Q. Yes.

A. I do not remember.

Q. To the Inland Company?

A. I do not remember that either.

Q. Now, in 1908, would the answers be the same?

A. Yes.

Q. 1909?

A. Yes.

Q. 1910?

A. You are getting closer now, and I am trying to refresh my memory. I think we gave the Colorado Fuel & Iron Company some spikes then. I could not answer positively. We did not always give them spike orders, because they did not always get in under the wire, so to speak.

MR. SEVERANCE: What does that mean, "get in under the wire"?

THE WITNESS: They did not have as low a price.

By MR. COLTON:

Q. From 1906 to 1908, do you now recollect that you took bids from the Colorado Company for any one of those different years?

A. Why, I think we did; we usually did.

Q. You do not remember now, as a matter of recollection, that you did?

A. No; I could not say positively, but, under the general rule I follow, I assume that we did.

Q. Now, in 1910, when, to the best of your recollection, you placed part of it with the Colorado and part with the Illinois, did you place it at the same price?

A. I do not remember that.

Q. Do you remember what relation the bids bore to each other on the original bid?

A. No, I do not.

Q. Would your answers be the same for 1911?

A. Yes.

Q. Is it your best recollection that you did give part of it to the Colorado Company in 1911?

A. I think we did.

Q. Would your answers be the same for 1912?

A. Yes.

Q. 1913?

A. I have answered that.

Q. In regard to spikes?

A. Did I not?

MR. SEVERANCE: Yes, he did.

By MR. COLTON:

Q. You gave it to all three in 1913?

A. Yes; that is my recollection.

Q. And at what price?

A. I have forgotten what the price was.

Q. Was the price the same for each of the different companies?

A. I can not answer that question; I have forgotten.

Q. Do you recollect whether there was any variation in the bids of those three companies on their original bids?

A. Not now; no, sir.

Q. What tonnage do you buy of spikes annually?

A. Oh, we buy anywhere from 30,000 to 40,000 kegs.

Q. 30,000 to 40,000 kegs?

A. Yes.

Q. How many hundredweight would that be?

A. 200 pounds to a keg.

Q. About what does that represent in money?

A. That represents about anywhere from—per keg, you mean?

MR. DICKINSON: No, the whole amount.

By MR. COLTON:

Q. Yes, the whole amount; your annual purchases in spikes.

MR. SEVERANCE: How many kegs did you say there were?

THE WITNESS: 30,000 to 40,000 kegs.

MR. SEVERANCE: It is a matter of computation. He can tell you the average price.

By MR. COLTON:

Q. What is the average price?

MR. COLTON: It would be better if he would give us about the amount.

MR. SEVERANCE: I was going to have him figure it.

THE WITNESS: Oh, perhaps \$100,000.

By MR. COLTON:

Q. And what is the approximate cost per hundredweight for spikes?

A. Oh, they vary from \$1.50 to \$1.75, and along up as high as \$1.90, and maybe more.

MR. SEVERANCE: Per hundred or per keg?

THE WITNESS: Per hundredweight.

MR. SEVERANCE: 200 pounds in a keg?

THE WITNESS: Yes, 200 pounds in a keg.

MR. SEVERANCE: How much did he give as the approximate amount of those purchases?

MR. COLTON: 30,000 to 40,000 kegs.

MR. DICKINSON: He said \$200,000.

THE WITNESS: No, \$100,000.

MR. DICKINSON: \$100,000?

THE WITNESS: Yes.

MR. DICKINSON: I thought you said \$200,000.

THE WITNESS: No, \$100,000.

By MR. COLTON:

Q. At about what price do tie plates sell? Of course, it varies?

A. Oh, yes; it varies all the way from—they have varied from \$28 a ton up to as high as, I think, last year tie plates went up to \$33 to \$35 a ton.

Q. About what does your annual purchase amount to, in money value, in tie plates?

A. Well, as I stated, we buy anywhere from 10,000 to 15,000 tons. You can multiply that by 28. That is what we paid for them last year—for the largest amount.

Q. What would your tonnage in tank plates amount to?

A. I cannot answer that question.

Q. What would the money value of them amount to per year?

A. I do not know that either.

Q. Boiler plates?

A. I cannot answer that question.

Q. Can you approximate it?

A. No, I cannot.

Q. If you combine boiler plates and tank plates, and take those plates together, can you approximate the tonnage?

A. No, sir; I cannot.

Q. For any year?

A. No, sir.

Q. For the year 1913?

A. No, I do not remember what we bought.

Q. Can you approximate your tonnage in wire goods?

A. No, sir.

Q. For any year?

A. No, sir.

Q. Or the money value for wire goods in any year?

A. No, I cannot. I would have to go back to my records to get that.

Q. Your bolts are mostly iron, I understood you to say?

A. Yes, they are. You are speaking of track bolts?

Q. Well, I am speaking of all the different characters of bolts you buy.

A. Well, when we were talking about bolts we were talking principally of track bolts.

Q. Those are mostly iron, I understand?

A. Yes.

Q. Are there other kinds of bolts that you buy?

A. Oh, yes; we buy machine bolts and carriage bolts, and various kinds.

Q. About what tonnage of bolts of that character—of steel bolts—do you buy?

A. You mean of track bolts?

Q. No; I mean of all kinds of steel bolts.

A. Well, we buy very few steel bolts. They are practically all iron. As I stated, I want to be clear. The only steel bolts that I know of that I have any recollection of buying are a few track bolts of the smaller size.

Q. You do not recall the prices of your steel bolts, do you?

A. No, not offhand.

Q. Take sheets. In 1906 from what different companies did you solicit bids?

A. I could not answer that question.

Q. Would your answer be the same for each of the years from 1906 to 1913, inclusive?

A. We solicited—as I testified, we solicited business from practically all of the sheet people in business.

Q. Now, let us see if that is the case.

A. That is my recollection.

Q. Yes. Could you name the different companies that are in the business?

A. No; I could not, offhand. That is impossible.

Q. Have you any idea what companies were in business in 1906 manufacturing sheets besides the American Sheet & Tin Plate Company?

A. I presume all of the companies that are in business now were in business then.

Q. Do you have any recollection as to what companies were manufacturing sheets in 1906?

A. Well, I presume the same companies that are manufacturing now.

Q. That is just a presumption on your part?

A. I am very sure they are.

Q. Have you a recollection that the companies now manufacturing sheets were making sheets then?

A. I do not know positively, no.

Q. Do you know anything about it; I mean as a matter of personal knowledge?

A. That all the companies manufactured? Not as a matter of personal knowledge.

Q. I wish you would name just as many companies as you know of who were manufacturing sheet in 1906, and what they were.

A. I could not answer that question without reference to my records.

Q. In 1907 from what different companies did you solicit bids on sheet?

A. I will have to answer the same thing; I cannot carry all those things in my head.

Q. Can you recollect any other company in 1907 than the American Sheet & Tin Plate Company?

A. In 1907?

Q. Yes.

A. I testified that we sent out bids to various companies here. You have a record of that.

Q. I am now asking you, though, for what companies you recollect, other than the American Sheet & Tin Plate Company, from whom you solicited bids in 1907, if you recollect any companies.

A. I could not state for 1907.

Q. Did you solicit bids from the American Sheet & Tin Plate Company in 1907?

A. I do not know; probably we did, but I am not sure.

Q. Haven't you regularly solicited bids from the American Sheet & Tin Plate Company?

A. As a rule, yes.

Q. Do you know any year that you didn't solicit bids from the American Sheet & Tin Plate Company?

A. I have no recollection of that.

Q. Take the year 1908. From what companies did you solicit bids for sheets?

A. I cannot answer that question.

Q. Can you name any companies from which you did solicit bids for sheets?

A. In 1908?

Q. Yes.

A. No, sir.

Q. In the year 1909?

A. I cannot give you those answers unless I look up my records.

Q. In 1910?

A. Just the same.

Q. And 1911?

A. I will answer the same way.

Q. In 1912?

A. My recollection is that in 1912—I assume that we gave——

Q. (Interposing) I do not want any assumption; I want your recollection if you have any.

A. Of whether we asked these different companies to bid?

Q. I want now what companies you now recall that you solicited bids from, if you do recollect that you solicited bids from any particular company, and give the name of it.

A. I do not recall the particular companies. We solicited bids from practically all these companies that were in business.

Q. You cannot name a single company, and state now, as a matter of recollection, that you solicited bids from it in 1912?

A. Only as I have stated, that we were in the habit of soliciting bids from all of them.

Q. And in 1913?

A. The same answer.

Q. Do you recollect that you got bids from the American Sheet & Tin Plate Company in 1913?

A. Why, yes.

Q. Do you recollect any other company besides the American Sheet & Tin Plate Company from whom you solicited bids?

A. We got bids from all these various companies I have spoken of.

Q. Name any company that you now recollect that you got bids from?

A. I cannot answer.

(The question was repeated by the stenographer.)

THE WITNESS: What year is that for?

MR. SEVERANCE: The present year.

By MR. COLTON:

Q. That is for 1913, besides the American Sheet & Tin Plate Company; you have already named that.

A. We got bids from Ryerson, bids from the Inland Steel Company, Jones & Laughlin; that is my recollection.

Q. Are you sure you got any bids on sheet from Jones & Laughlin in the year 1913?

A. I think so.

Q. How many purchases of sheet did you make in 1913?

A. I could not answer that question.

Q. At what time in the year did you make your sheet purchases?

A. We make them right straight along through the year.

Q. You had a large number of transactions for that year in sheets?

A. Quite a few, yes.

Q. Can you now recall upon how many of those Jones & Laughlin bid?

A. No, sir.

Q. Can you now recall upon how many of those the Inland bid?

A. No, I cannot.

Q. Or Ryerson?

A. No.

Q. Or the American Sheet & Tin Plate Company?

A. On how many purchases?

Q. How many of those the American Sheet & Tin Plate Company bid on?

A. I don't remember just how many.

Q. Have you any recollection for the year 1906 as to which

manufacturers bid the same price in sheets, if there were any that bid the same price?

A. I do not recall anything of that kind.

Q. You have no recollection on the subject one way or the other?

A. In 1906? No, I have not.

Q. Have you any recollection as to the relation of the prices of the different bidders on sheets for the year 1906?

A. No.

Q. Would your answer be the same for 1907?

A. Yes.

Q. And for 1908?

A. Yes.

Q. 1909?

A. Yes.

Q. 1910?

A. Yes.

Q. 1911?

A. Yes.

Q. 1912?

A. Yes.

Q. 1913?

A. Yes; I will not commit myself unless I look at my records.

Q. Did you buy turntables during 1913?

A. I don't remember whether we did or not; I don't think so.

Q. Did you buy any turntables in 1912?

A. I cannot answer that question.

Q. Do you know what percentage of your turntables you bought from the American Bridge Company during 1912?

A. I don't think we bought any; that is my recollection, but I do not know.

Q. Did you buy any from anybody?

A. In 1912?

Q. Yes.

A. I think we did.

Q. From whom?

A. From the Chicago Bridge & Iron Works; I don't remember.

Q. Are you sure you bought any turntables in 1912 from the Chicago Bridge & Iron Works?

A. I am not positive about it, but I think we did; we do not buy very many.

Q. You buy a small amount of them?

A. Just a few; it is a trivial matter.

Q. Do you have no recollection as to the comparative variation in prices between the different manufacturers of sheets and plates, for example, for any of the years?

A. Oh, it would vary anywhere, I would say, from one to two dollars a ton; that is my recollection.

Q. That is the difference between sheets and plates you are speaking of?

A. No, I didn't say that; I didn't understand you.

MR. SEVERANCE: What did you mean by that answer? I would like to have it clear, as it is important. Just state what you meant. You meant between bids?

THE WITNESS: Between bids.

MR. COLTON: Read the question.

MR. SEVERANCE: May I be pardoned? I understood the question.

MR. COLTON: I do not think the witness caught the question.

By MR. COLTON:

Q. (Continuing) I want you to compare the apparent uniformity or lack of uniformity on plates and sheets, if you have any recollection one way or the other.

A. I do not recall between the two; I thought you had reference to the different bids on those two different articles.

Q. For what year?

A. For no particular year.

Q. Have you any recollection for any year?

A. No, no particular year. I give that as a general answer. They vary anywhere from \$1 to \$2 a ton.

Q. Do you mean to say that in the case of plates there was any such variation in the year 1906?

A. I could not answer that question; I think so.

Q. Do you have any recollection on the subject one way or the other?

A. I would not be positive without looking up my records, but that is my general recollection of the situation.

Q. Do you know the price on plates for any of the time?

A. No.

Q. You do not know how many of them quoted the same price for those years, 1906 and 1907?

A. No, I do not.

Q. And if there was a variation of a dollar or two a ton on plates, it might have been one company or two companies that varied from the other companies?

A. Yes.

Q. Now, have you any recollection—what I intended my question to be was, it may not have been clear—have you any recollection as to the comparative uniformity in prices of plates and sheets?

A. I could not answer.

Q. You do not know whether there is a greater variation, whenever there is a variation in price, in sheets than there is in plates as between different manufacturers?

A. No, sir; I could not answer that; I do not think so.

Q. You have no direct recollection as to the number of manufacturers that quoted the same prices in sheets and the number that quoted different prices in sheets?

A. No, I do not; I have had bids where the prices were the same; not all of them, but that is rather unusual.

Q. That did occur in respect to sheets at various times?

A. Not very often; it has occurred.

Q. It has occurred; now, can you state the number of times it has occurred in any given year?

A. No, sir; I could not, nor any particular year.

Q. You were then speaking of sheets, were you not?

A. I was speaking of sheets and plates.

Q. Now, in reference to plates, do you undertake to say that in the year 1906 there was not a large number of occasions on which a number of manufacturers quoted the same price on plate?

A. I couldn't answer that question; I don't remember.

Q. Would your answer be the same for 1908 and 1909?

A. I cannot answer for any particular year.

Q. Don't you know even that there was a severe cut in plates in 1909?

A. There have been several very severe cuts.

Q. Can you name any of the severe cuts that have taken place?

A. I don't remember the dates.

Q. Do you remember the year.

A. No; I don't remember the year.

Q. Do you place your order on plates at a single time?

A. No, sir.

Q. How many orders do you place in plates?

A. Oh, we buy them as the requisitions come in. They come in frequently.

Q. Was that the practice in 1906?

A. Yes.

Q. How many times did you place plate orders in 1906?

A. I can not answer that question.

Q. Have you any idea?

A. No, sir.

Q. Have you any idea for 1907?

A. No.

Q. For 1908 and 1909?

A. I have not any idea for any particular year, because, as I say, the requisitions are coming in every day.

Q. Can you give the money value of the plates for any of those years?

A. No, sir; I can not.

Q. Approximately?

A. No, sir.

Q. Were your plate purchases large or small?

A. That depends upon circumstances. Some years they are larger than others.

Q. What would be the money value of plates in your largest years?

A. I can not answer that question.

Q. Can you give any approximate estimate?

A. No, sir.

Q. And you can not now state, as a matter of recollection, the approximate number of times that there were two or three or more manufacturers quoting the same price on plates for any one of those different years?

A. No, sir; I can not; but my records will show it all right.

Q. And there were occasions in plates, were there not, where two or three or more quoted the same price?

A. I have a recollection of something of that kind; yes, sir.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. I understood you to say a moment ago that while at times some of the people would quote the same price, that that was unusual?

A. Yes; it is rather unusual.

MR. COLTON: What product are you speaking of?

MR. SEVERANCE: I am speaking of the thing about which you have just been examining—plates and sheets; that is what you have been asking him about, plates and sheets, and that is what he gave his testimony about.

MR. COLTON: You did not call his attention to that at the time. He has spoken of rails and spikes and plates and sheets, and I don't think the witness knew what he was answering there.

THE WITNESS: I assumed that is what he meant.

MR. SEVERANCE: That is what you have just been talking about.

MR. COLTON: I would like to have the question and the answer read.

(The stenographer read as follows:)

“Q. I understood you to say a moment ago that while at times some of the people would quote the same price, that that was unusual?

“A. Yes; it is rather unusual.”

MR. SEVERANCE: You had just been talking to him about sheets and plates, and my question is directed to sheets and plates—the thing about which you have been examining him.

By MR. SEVERANCE:

Q. You have been asked by counsel to name the sheet mills that were in existence in 1906 and various other years shortly after you became the purchasing agent, and you stated that you could not name the identical mills. Is it or is it not a fact that since you have been purchasing agent of the Burlington Road there have been a large number of sheet mills in business who have been quoting prices to you?

A. Yes, sir.

Q. Is it or is it not a fact that you are frequently waited on by soliciting agents of different mills?

A. Yes, sir. They make life a burden to me, sometimes.

Q. How long has that been the case?

A. Ever since I have been purchasing agent.

Q. How frequently do the soliciting agents for the various steel mills and commission men or brokers and jobbers of steel call on you to solicit business?

A. If he is a good lively man, he is around there usually about once a week; maybe more, maybe less. My door is open to anybody. I encourage them to come, although it is sometimes rather trying. However, I encourage them to come.

Q. Are there a good many or only a few of these gentlemen?

A. Oh, there are a great many.

Q. Do or do not the various steel mills have agencies in Chicago?

A. A great many of them do. Yes; they have agencies. For instance, as an example, when I spoke of this man Theodore Geissmann, he represents mills, and there are a great many other railway supply concerns, as they call themselves; they are innumerable, and they represent different mills of different kinds.

Q. Do these gentlemen who represent the different mills

at times come in and quote you prices without being previously solicited so to do?

A. Oh, yes.

Q. Is not that a rather usual thing—for them to come in looking for orders?

A. Yes; a great many of them come in looking for orders. They do, yes. They come in frequently.

Q. You stated, in answer to counsel, that last year there was a difference of about two cents a hundred in the price you paid for angle bars, and that previous to that it is your recollection that you paid the same prices?

A. Yes, sir.

Q. Do you recall, now, whether the prices quoted you for angle bars, when the quotations were originally received, were the same, or merely that you paid the same price when you came to make your contracts?

A. For what year, Mr. Severance?

Q. Previous to last year. You said you paid the same price.

A. My recollection is that the quotations were the same. That is my recollection.

Q. You say the angle bars are usually sold with the rails?

A. Yes. As a rule—you might say it is universal—we give the Illinois Steel Company, we will say, 30,000 tons of rail, and we give them the angle bars for that amount, and the same with the Colorado Fuel & Iron Company; but, for instance, we do not give the Lackawanna any angle bars. That would mean a long haul. I mean, we would have to pay the difference in freight. If we buy any rail in the east, that tonnage of angle bars will go to the Illinois Steel Company, naturally, because that rail will be distributed east of the Missouri River, and there will be a shorter haul.

Q. In the general run of steel products, outside of rails and angle bars, would you say that it is usual or unusual for the different mills to quote you uniform prices?

MR. COLTON: I object to that on the ground that it calls for the witness to give a conclusion as to a great number of products, and that he can scarcely have all of these different

products in his mind, even if he ever knew the prices and variations in them; also on the further ground that it is re-examination on what you have already examined him on during the direct examination.

(By request of the witness the stenographer repeated the pending question as follows:)

“Q. In the general run of steel products, outside of rails and angle bars, would you say that it is usual or unusual for the different mills to quote you uniform prices?”

THE WITNESS: It is unusual.

By MR. SEVERANCE:

Q. And has that been so during all the time you have been purchasing agent?

A. Yes, sir.

Q. You have said that you made sheet purchases and plate purchases a great many times during the year; as I understood you, as fast as requisitions came in?

A. Yes.

Q. Is that true as to most of your purchases, aside from rails? That is, do you make them from time to time?

A. Yes; we do, except where we have contracts, and then, of course, we place the orders just the same as the requisitions come in.

MR. SEVERANCE: That is all.

RE CROSS EXAMINATION

By MR. COLTON:

Q. Take up the question of plates: do you mean to state, as a matter of recollection, that in the year 1906 it was unusual for a considerable number of manufacturers to quote the same price on plates?

A. That is my recollection.

Q. Do you have any recollection about 1906 as to the number that quoted the same price and the number that quoted different prices at different times?

A. No, sir; I cannot answer that question.

Q. Have you any recollection as to the number that quoted

the same price or different prices in respect to plates during the year 1907?

A. No, sir; not the exact number. I cannot answer that question.

Q. I do not mean the exact number, but I mean——

A. I want to make myself perfectly clear: the bids come in and are placed on my desk and, naturally, if there are a number of quotations the same, my attention would be drawn to it; very naturally. That has happened——

Q. In plates?

MR. SEVERANCE: One moment, Mr. Colton; let the witness finish.

THE WITNESS: But when, and to what extent I cannot answer.

By MR. COLTON:

Q. You cannot answer the extent to which it has happened in plates for any of the years 1906, 1907, 1908, 1909 or 1910?

A. No, sir.

Q. Or the extent to which it did not happen during those years?

A. As I testified, it was unusual. Therefore the extent that it did not happen would naturally be very much greater than the extent to which it did happen.

Q. Do you carry in your mind any events for any of the years 1906——

A. (Interposing) Any events?

Q. Wait until I finish the question. Do you carry in your mind any event—any transactions or events for any of the following years which enable you to say the extent to which the different manufacturers, two or more of them, quoted the same price on plates?

A. No.

Q. Is that true for all years?

A. Yes.

Q. Do you not know, as a matter of fact, that during the years 1906 and 1907 there was great uniformity in price quotations in respect to plates?

A. I do not remember it, sir.

Q. Do you have any recollection that it was not so during those two years?

A. I cannot answer that question offhand. If I had my records here I would answer you and answer you intelligently.

Q. Now, would your answer be the same for 1908?

A. Yes.

Q. 1909?

A. Have I not answered all these questions?

Q. Will you answer the question now, please?

A. Yes.

Q. 1910?

A. Now, let me be clear. That there was uniformity in price?

MR. COLTON: I would like to have the record read. I want the answer to my question.

MR. SEVERANCE: I will be glad to have it read, for I do not think he has understood your last question.

MR. DICKINSON: Read it all and let him put in any explanation he wants.

MR. COLTON: Read the question. You took this up, and I would like to have the record read to the witness and the witness can make any explanation he wishes.

MR. SEVERANCE: Read the question back there.

(The record was thereupon read by the stenographer.)

MR. COLTON: I want the witness to understand my question and to answer it.

By MR. COLTON:

Q. Now, have you any further explanation?

MR. SEVERANCE: I suggest you re-put the question, if you do not mind.

MR. COLTON: No, I do not care to re-put it, but I would like to have it re-read.

By MR. COLTON:

Q. Do you wish it re-read, or do you understand it now?

A. Can I ask you a question?

MR. SEVERANCE: Certainly you may ask a question.

MR. DICKINSON: Well, I do not know that the witness has a right to do that.

MR. SEVERANCE: Do not interrupt the witness, Judge Dickinson. You go on, Mr. Hopkins.

MR. DICKINSON: But we are very willing to have him do so.

THE WITNESS: My understanding of your question is whether I can recollect for any of the years from 1906 up to the present time any event where the prices on plates were uniform on bids that I received; is that right?

MR. DICKINSON: No; that is not the question.

MR. SEVERANCE: That is what I thought you understood.

By MR. COLTON:

Q. The question is whether you have in your mind any transactions or events for any of the years 1906, 1907, or 1908, which enable you to state the extent to which two or more of the manufacturers quoted the same price?

A. No, I have not.

Q. For those years do you carry in your mind—I am speaking only of the years 1906, 1907 and 1908—any events or transactions that enable you to state the comparative proportion of the time that several of the manufacturers quoted the same price? I do not mean all of them, but several of them?

A. No, sir.

Q. Is that true of the year 1909?

A. Yes.

Q. 1910?

A. Yes.

Q. 1911?

A. Yes.

Q. 1912?

A. Yes, sir.

Q. 1913?

A. Yes, sir.

MR. COLTON: That is all.

By MR. SEVERANCE:

Q. Is it or is it not the fact that from 1906 on right down

it has been the exception when more than one mill has quoted the same price, according to your best recollection?

A. Yes.

MR. SEVERANCE: That is all, Mr. Hopkins. Mr. Thompson.

ALEXIS W. THOMPSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Thompson, where is your home?

A. Chicago, at the present time.

Q. How long have you lived in Chicago?

A. Well, most of the time since 1899; I went to Chicago in 1899.

Q. Previous to 1899 where did you reside?

A. New Castle, Pennsylvania.

Q. And had you lived there for a long time before that?

A. Since April, 1875.

Q. Mr. Thompson, what was your business when you lived in New Castle?

A. Well, I was connected with a concern; it was called the Aetna Iron Works, Limited, which was afterwards changed to the Atlantic Iron & Steel Company, and is a little better known by that name.

Q. In what capacity were you connected with the Aetna Iron Works?

A. Well, when I first went there I was probably time-keeper and weighmaster, and made out the payrolls and the general bookkeeping end.

Q. How long did you continue in the bookkeeping end of the business?

A. Well, more or less all of the time; that is, I had charge; I was secretary of the company.

Q. Secretary of the company?

A. Secretary and treasurer; yes, sir.

Q. And as secretary and treasurer of that company what were your duties, generally?

A. Well, to keep the accounts and have general direction of the office forces, and the general duties that a secretary and treasurer has.

Q. Did you at that time to any extent familiarize yourself with the practical end of the business?

A. Yes; all the time. I might add that at that time it was entirely making iron. We did not make any steel in our concern. We had blast furnaces, puddle mills, muck rolls, guide mills, and cut nail factories, 55 machines.

Q. All iron products?

A. All iron products.

Q. How long after you went with that plant was it that you first began to manufacture steel?

A. Well, we never manufactured steel directly. We used to buy steel billets and blooms and roll them, but we never made any steel at that time.

Q. As I understand it, the same rolls can be used for rolling iron or steel?

A. Yes; that is the same weight product, of course.

Q. Up to what time were you connected with that corporation?

A. Until 1899, when the Republic took it over.

Q. The Republic took that over?

A. Yes.

Q. Did the Republic take over other plants besides that?

A. Oh, yes; lots of them.

Q. Where were they located?

A. Some in Youngstown, Ohio, what they call the Mahoning Valley, and some in the Shenango Valley at Sharon, Pennsylvania, as well as New Castle, and generally all of the so-called iron-producing plants through the Central West. My recollection is that there were about 28 of them altogether, nearly all of them iron plants.

Q. Did they have any steel plants at all to start with?

A. No, sir.

Q. Did they have any mines?

A. You mean the Republic?

Q. Yes.

A. Well, they took over two or three ore mines.

Q. Where were they located?

A. The Cambria and Lily mine was located on the Marquette range, and they took over three 40's on the Mesabi range, called the Franklin group.

MR. DICKINSON: I want to enter an exception to this as irrelevant.

MR. SEVERANCE: I am coming to something to make it relevant.

By MR. SEVERANCE:

Q. What relation did you have with the Republic after it was organized?

A. I went with them in 1899 and was on the executive committee and had charge practically of their northern ore properties, their blast furnaces, and their southern ore properties and blast furnaces.

Q. How long did you continue on the executive committee?

A. Well, all the time I was with the Republic, up to 1905, when I left.

Q. Did you occupy any other official position with the Republic, except as you have stated?

A. I was vice-president, and for four years president.

Q. During what four years were you president of the Republic?

A. From 1901 to 1905, a little over four years.

Q. During your connection with the Republic Iron & Steel Company did they enter upon the manufacture of steel?

A. Yes; we started to build a Bessemer plant at Youngstown, Ohio, in 1900, which was completed during the time I was with them, practically completed in 1902, I think.

Q. Did you build any open hearth plants when you were with them?

A. No, we never had any while I was with the Republic. It was Bessemer.

Q. And did you acquire any further ore companies while you were with them?

A. Yes, several. That was my business, to get as many as we could, because we did not have a very large tonnage.

Q. That is, a large ore supply?

A. That is, when the company was first organized.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

ALEXIS W. THOMPSON,

the witness under examination at the taking of recess, resumed the stand.

DIRECT EXAMINATION (Continued).

By MR. SEVERANCE:

Q. Mr. Thompson, when did you resign as president of the Republic Iron & Steel Company.

A. October, 1905.

Q. When, if at all, did you next go into the steel business after retiring from that position?

A. In 1906, with the Inland Steel Company of Chicago.

Q. At first, what was your official connection with that company?

A. Member of the executive committee and, I think, chairman of the board they designated it at that time.

Q. What is your present position in that company?

A. I happen to be the president.

Q. How long have you been the president?

A. I think about three years. I am not quite certain; I think it is three years.

Q. Previous to the time you became president of the company, had you been at all times during your connection with it the chairman of the Executive Committee?

A. Well, chairman of the board.

Q. I mean chairman of the board?

A. Yes; up to that time. Then they abolished that office; did not think it was necessary to have it.

Q. Who was president when you were chairman of the board?

A. Charles Hart.

Q. During the time you were chairman of the Board, were you in close touch with the affairs of the company?

A. Certainly; yes, sir.

Q. Did you devote your time to the business of the company?

A. Altogether.

Q. You have, ever since 1906?

A. Yes, sir.

Q. Where is the plant of the Inland Steel Company located?

A. Indiana Harbor.

Q. Is that a suburb of Chicago?

A. No; it is in Indiana. It is three miles east of Whiting, where the Standard Oil Works are. It is about four or five miles from the line between Illinois and Indiana.

Q. Which way from Gary—east or west?

A. West of Gary.

Q. Between Gary and Chicago?

A. Yes.

Q. When you went to the Inland Steel Company, in 1906, what furnaces or mills did they have?

A. They did not have any blast furnaces. I think I have a memorandum, and can give you that exactly: five open hearth furnaces, one blooming mill—do you want this in detail?

Q. Yes; tell the detail of what you have.

A. One 24-inch structural mill; nine sheet mills; three galvanizing pots and a roofing department.

Q. What is the roofing department?

A. Well, it is where they make galvanized or plain black sheets for roofs of all kinds; mostly galvanized, of course.

Q. Since you went with the company in 1906, when they

had the plants of which you have spoken, what additions, if any, have been made to the plants?

A. In 1907 we finished the first blast furnace, No. 1. It was blown in in August, 1907; and one open hearth furnace in 1907, making six; we had five before; one continuous merchant bar mill in 1908; one sheet bar and billet mill,—

MR. DICKINSON: When was that continuous merchant bar mill—in 1907 or 1908?

THE WITNESS: In 1908. It was finished in 1908.

MR. DICKINSON: You are giving 1908 now, are you?

THE WITNESS: Yes.

And one sheet bar and billet mill in 1908.

In 1909, one galvanizing pot additional to what we had.

In 1910 four galvanizing pots.

By MR. SEVERANCE:

Q. In 1910 four more galvanizing pots?

A. Yes; and two open hearth furnaces in 1910; and nine sheet mills in 1910, which just doubled our capacity.

In 1911, rivets, spikes, bolt and nut department.

In 1912, one additional blast furnace, making two. That is all we have.

In 1913 we finished four more open hearth furnaces, making a total of 12.

In 1913, one plate mill,—I think they are called a 90-inch plate mill; and in 1913, just finished and in operation, 66 Kopper's by-product ovens.

Q. What was the investment in the business of the Inland Steel Company when you went to the company in 1906, approximately?

A. A little less than four million dollars.

Q. Has that been increased since that time?

A. Yes, sir; very much.

Q. To what extent?

A. You mean the total investment in plant and properties, ore mines and cash working capital?

Q. Yes.

A. Almost twenty million dollars.

Q. How do the sales of the Inland Steel Company compare now with what they were in 1906?

A. In 1906 they were about \$6,000,000. In 1910—do you want that too?

Q. Yes; as many years as you can give.

A. In 1910, \$9,800,000.

In 1911, \$10,800,000.

In 1912, \$13,130,000.

This year, of course, is not complete, but I would say it would be approximately the same as 1912, because our new works we did not get much benefit from, as we were just finishing it up.

Q. What has been the fact as to whether you have ordinarily run pretty full, Mr. Thompson?

A. We ran pretty full; yes, sir. There were times when we did not run over 60 per cent. I think that is the lowest we got, if I remember correctly. Perhaps in 1908, parts of 1909, and part of 1911. Most of the mills throughout the country ran—some of them even less than the 60 per cent.; but we have a pretty good market and I suppose we ran pretty nearly as full as any mill; I should say 60 per cent. in those lean years, two or three of them.

Q. What have you, if anything, in the way of transportation facilities?

A. None except a couple of ten thousand ton ore boats, freighters.

Q. Do you bring down your own ore?

A. Yes, sir. I will not say that we do; we exchange charters; but the two boats will bring down all the ore we use for the two blast furnaces, if they were kept steadily in the business. We often change off and charter other boats and re-charter ours.

Q. But you have sufficient tonnage in those two boats to handle your ore traffic, if they were devoted to that purpose?

A. Yes; just about.

Q. What have you in the way of iron mines, if anything?

A. We have two what they call "forties" on the Mesabi range.

MR. DICKINSON: Ore?

MR. SEVERANCE: Iron mines.

THE WITNESS: We have two "forties" on the Mesabi. I cannot give you the exact location, as to township and all that. I just do not recall it, but it is a matter of record. They are near Hibbing.

By MR. SEVERANCE:

Q. Just give us the names of the mines, please.

A. The Laura Mine and the Grace. Then we have three "forties" on the Cuyuna range, one partly developed and the other on which nothing has been done except some exploration.

Q. What are the names of those mines?

A. Well——

Q. Or have they not been named?

A. Yes; the one that we are operating is called the Thompson. That is just a name that we gave to it. The other two, one of them is a state lease, and it has not any name that I know of, and even the third forty has not any; that is, we have not named it; have not explored the mine.

Q. What is the character of the ore in your mines on the Cuyuna range?

A. Well, so far as we have gone, the physical qualities are pretty good. There is considerable iron which we call low grade, that will have to be treated or put in with our higher grade ore, but it is a good physical ore in the furnace. We have used enough to know that; equally as good as the old range ore, we think; and, you know, the old range ore is generally understood to be a better ore than the Mesabi, on the whole; better physically for working in the furnaces.

Q. You found this Cuyuna ore to be somewhat like the old range ores in its physical structure?

A. Yes, sir; even more than the Mesabi.

Q. What lines of railroad are your mines located on?

A. The two Mesabis are on the Great Northern, and the Cuyuna is on what we call the Soo Line—the Minneapolis, St. Paul & Saulte Ste. Marie. They are the only railroad, that is, in the Cuyuna range, although I think the Northern Pacific

touches one end of it, but they have not placed any tracks for any of the mines.

Q. Then the Inland Steel Company has no mines that are served by the Duluth & Iron Range, or the Duluth, Missabe & Northern?

A. No, sir.

Q. While I think of it, did the Republic have any mines that were located along the lines of either the Duluth & Iron Range or the Duluth, Missabe & Northern when you were with it?

A. I think so. I think there were two.

Q. Have you been interested in mines up there on the range as an individual?

A. Yes, sir.

Q. Outside of the Inland Steel Company or the Republic?

A. Yes, sir.

Q. Are you still?

A. Yes, sir.

Q. Are any of those mines served by either the Iron Range or the Missabe?

A. Yes; I am pretty sure there are two of them, to the best of my recollection, which I am interested in. I think there are five different forties, and I would not be just dead sure whether it is one or two or three, but some of them are reached by either one or both of those roads.

Q. And have shipments been made both by the Republic and by these mines in which you are interested over the Iron Range and the Missabe?

A. Yes, sir. That is, I am sure I am not mistaken. Of course, what they have done lately I do not know, whether they have changed or not, but it was so, I know.

MR. DICKINSON: What time, now, are you speaking of?

By MR. SEVERANCE:

Q. When do you mean?

A. That was, say, from 1899 to 1905.

Q. You are speaking about the Republic mines, now?

A. Yes, sir.

Q. They did ship over these lines?

A. Yes, sir.

Q. How about the mines in which you are interested, and in which the Republic is not interested? Have they shipped over the Iron Range or the Missabe?

A. You mean the Great Northern?

Q. No.

A. I did not understand.

Q. You said you are interested as a stockholder or personally in some other mines?

A. Yes, sir.

Q. Outside of either the Inland or the Republic?

A. Yes, sir.

Q. Have they made shipments of ore over either the Iron Range or the Missabe roads?

A. Yes, sir; certainly.

Q. What has been the character of the service rendered both to the Republic and to these other mines in which you are interested, by the Iron Range and the Missabe roads?

A. Always the best. I thought many times they gave us the preference over their own hauls, because they always kept up their equipment and were ready for service at any time, and the Corporation, of course, had large stock piles on the docks and in transit and at the furnaces, and they could give and take a little, and so far as I know, they served the outsider better than they did themselves; they would stretch a point to do it. I know where they have done it in some instances.

Q. How long an ore reserve has the Inland Steel Company now, based upon its present consumption?

A. Well, of course, on the Cuyuna range we cannot measure it as definitely as we can on the Mesabi, but from what explorations we have made, and estimates—the best we can do—we figure we have from five to fifteen million tons in the three forties.

MR. DICKINSON: Is that on the Cuyuna range?

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. On the Cuyuna range?

A. Yes, sir.

Q. And how much on the Mesabi?

A. Well, from five to seven. That we know definitely, you know. We can measure that up almost accurately.

Q. And what is your annual consumption at present in your blast furnaces?

A. In round numbers, a half a million tons when both furnaces are in blast. I should say 25 to 30 years' supply with the present two furnaces.

Q. Do you depend entirely upon your own mines for your ore supply or do you purchase ore?

A. I think we purchased ore every year that I have been with them, from 50,000 to 100,000 tons.

Q. Has there been plenty of ore available for purchase?

A. Yes, sir; always. There was never a time we could not buy ore—never; from a good many large companies.

Q. From a good many large companies?

A. Yes, sir. Almost any of the larger companies at Cleveland. The Cleveland Cliffs, one of the largest independent mines, always had ore to sell at any time. M. A. Hanna & Company; Pickands, Mather; Oglebay, Norton & Company, and Corrigan, McKinney & Company, they are very large independent producers, and Todd, Stambaugh & Company, and then there is Breitung & Company; they have large fee property and mines on the Marquette range. They are large sellers. That is all I think of—the largest ones. I think it includes nearly all of them. In fact, all of the ore companies represented in Cleveland have ore to sell. We figured all the ore that we bought just reserved that much more in our own mines, and there have been one or two or three years, or since 1907, that ore sold pretty cheap—nearly as cheap as we could produce it ourselves, and, of course, we bought more liberally in those years.

Q. When did you acquire your ore holdings on the Mesabi range?

A. Well, the way is this, that myself and two or three associates had the Laura mine, and the Inland Steel Company was anxious to get into the steel business and build blast fur-

naces, and we sold them the mine. That is how I happened to go with them.

Q. That is at the time you went with the Inland Steel Company?

A. Yes; in 1906. They had no ore properties before that. They have acquired them all since.

Q. Are those vessels that the Inland Steel Company has of the same general type as the ordinary lake vessel of the Pittsburgh Steamship Company, and others?

A. Yes; they were built by the American Ship Building Company, in 1907 and 1908. They are not quite the largest, but nearly the largest; probably larger than the average that the Pittsburgh Steamship Company have. They are 10,000 ton boats, and that is about the largest.

Q. They are modern, well equipped boats?

A. Yes; absolutely just as good as new. We got them two years ago, so that they practically have been tried out one year; one one year, and one of them two years.

Q. Mr. Thompson, where does the Inland Steel Company have selling offices?

A. Well, we have one at St. Paul and one at St. Louis, and one at Denver, I think; yes, one in Denver, and one at Dallas, Texas.

Q. That is, you maintain regular agencies at those places?

A. Yes.

Q. Having representatives?

A. Well, they are in our employ. We rent the offices and they are in our employ. We do not have any selling agencies; we sell direct, that is, we do not sell on commission.

Q. I understand; they are selling agents, representing you there?

A. Yes.

Q. In what parts of the United States do you sell your products outside of the immediate vicinity of those agencies?

A. Well, a great deal of our stuff goes up to the Northwest, as far as St. Paul and Milwaukee, and Minneapolis, and we sell a good deal of stuff in Texas and Oklahoma, but very little on the coast.

MR. DICKINSON: You mean the Pacific coast?

THE WITNESS: Yes, very little there; occasionally a shipment, but not much.

By MR. SEVERANCE:

Q. Your plant, you said, was located between Chicago and Gary?

A. Yes.

Q. Where is it with reference to the old South Works of the Illinois Steel Company?

A. The South Works are still nearer Chicago than ours.

Q. That is, you are between the two, are you?

A. Yes.

Q. Are you located on the Lake front?

A. Right on a point of the Lake.

Q. So that you unload your ore right at your works?

A. Yes; we have our own docks and unloading rigs, the same as all of them do.

Q. Have you the same rail connections or facilities that the Steel Corporation has for distributing your products from the works?

A. I would say very nearly the same. You see, we have the Pennsylvania Road, the Lake Shore, the B. & O. and the E., J. & E., and then the Belt Line, so that we have access to all of the railroads coming into Chicago by a switching charge to those that do not actually run through the works. The three trunk lines that I mentioned go right through the works, split them right in two.

Q. Are you served by the same roads that serve the Gary and South Chicago works of the Illinois Steel Company?

A. I should say yes, practically the same. I have never heard there was any difference. You see the line of Gary is only about a third of a mile or a quarter of a mile from our line, where they begin; of course they run on down further, but I do not think there is half a mile difference between the two boundaries.

Q. Do you sell as far west as Utah?

A. I think so, yes; not very much.

Q. Do you go into Montana?

A. Yes.

Q. Wyoming?

A. Yes, and I suppose into the Dakotas. I think we reach into all of those places. Take sheet products, galvanized products, like wire nails; they go to the corner grocery stores, but not much in the heavy stuff.

Q. Mr. Thompson, what class of steel products are produced by the Inland Steel Company?

A. Do you want the names of them? It is a pretty long list.

Q. Yes.

A. Here are the main ones: Sheets, black, galvanized and special, plates, angles, both bar and structural; channels, structural, five to twelve inches; Z-bars from $2\frac{1}{8}$ to 6 inches; I-beams from 5 to 12 inches, bars, flat, square, round, oval and half oval; concrete reinforcing bars, plain and twisted; rivets, nuts, bolts, spikes, tie-plates, billets, blooms and pig iron. Of course mostly for our own use. Then we have a mill at Chicago Heights where we roll high carbon stuff, all sorts of bars and shapes and sections from four-tenths carbon to rail steel carbon, which is seven- to eight-tenths. That is made by buying old Bessemer rails, or mostly Bessemer, shearing them up and heating them and rolling them into stuff of that kind, bedstead angles and all that sort of high carbon stuff.

Q. That is what you call re-rolling?

A. Not exactly, because when the rails are cut up and reheated they are broken down the same as you use billets.

Q. Re-rolled and re-heated material?

A. Yes, we re-heat it; the re-rolling rail process is heating it and rolling the rails down a little smaller, but there is nothing of that kind; we break it down into the smaller sizes.

Q. What is the name of your plant over at Chicago Heights? Has it any separate name from the Inland Steel Company?

A. We generally call it the Chicago Heights plant.

Q. How extensive is that plant? What is the tonnage you turn out there?

A. About 30,000 tons a year.

Q. Where is the market for that product?

A. Well, it is mostly around Chicago. You see the reinforcing bars and twisted bars are used for concrete work, and there has been a very large amount of building around Chicago, and we find a ready market for it there. Of course we ship some to other points, but not very extensively.

Q. Do you ship any east, or is your market entirely Chicago and west?

A. Entirely Chicago and west; we do not ship east at all; that is, perhaps we go as far east as Indianapolis and some points down there, but not very far. We do not go to the Valley or Pittsburgh or to the east here at all.

Q. Why is that?

A. Freight rates are against us.

Q. Has that always been so?

A. Certainly.

Q. What companies or mills are there that are in competition with the Inland Steel Company in the territory in which you sell your product?

A. Well, almost all of them. I can enumerate the principal ones—Illinois Steel, Indiana Steel Company, that is the Gary Plant; and the American Sheet & Tin Plate Company. Do you want the subsidiaries as well?

Q. Yes; give all of them.

A. Cambria Steel Company, Carnegie Steel Company, Lackawanna Steel Company, Republic Iron & Steel Company, Youngstown Sheet & Tube Company, La Belle Steel Company, Jones & Laughlin Steel Company, Brier Hill Steel Company; although they are not finished they will be competitors. I do not know whether they are running yet, but they are practically ready to run; and the Stark Rolling Mill Company at Canton, Ohio, the Wheeling Corrugating Company, Wheeling, West Virginia; the Portsmouth Iron & Steel Company; I think they are at Portsmouth, Ohio, if I remember right, and Whitaker-Glessner Company.

MR. DICKINSON: Is that John J. Glessner or not?

THE WITNESS: I am not quite sure whether it is or not.

Newport Rolling Mill Company, Newport, Kentucky,

American Rolling Mill Company, Middletown, Ohio; Granite City Steel Company; they are operated by the National Enameling and Stamping Company; and the Colorado Fuel & Iron Company. I might have forgotten two or three, but that covers nearly all of them.

Q. Do those different concerns compete with you generally in the territory in which you are selling?

A. Yes.

MR. DICKINSON: Do you mean generally in all classes of products?

MR. SEVERANCE: No; such ones as they make and you make that are in common.

THE WITNESS: Yes, sir.

By MR. SEVERANCE:

Q. Has that competition existed ever since you became connected with the Inland Steel Company in so far as you have made products that were common with these others?

A. Yes.

Q. What has been the nature of that competition? Has it been active or otherwise?

A. It has been very active all the time.

Q. Has that competition been restrained by agreements on prices at any time?

MR. DICKINSON: I object to the witness stating anything except what he knows or has been a party to himself.

By MR. SEVERANCE:

Q. So far as you know?

A. No, sir; not to my knowledge.

Q. Has the Inland Steel Company been a party to any agreements by which it agreed to sell at the same price as any of its competitors at any time during that period?

A. No, sir.

Q. Have you made your own prices, independently of everybody else?

A. Always; yes, sir.

Q. Did you attend any of the so-called Gary dinners?

A. I don't think I missed one. If I did, I am sorry. I tried not to.

Q. Were any agreements or understandings as to prices entered into at those dinners?

A. No, sir. If there were, I did not know it. I never heard at any of the dinners the price of bar steel or any other specific price mentioned.

Q. Did the Inland Steel Company, pursuant to the Gary dinners, or by reason of the Gary dinners, quote the same price as any of its competitors, so far as you know?

A. I suppose at times we did, but not by any agreement. I suppose there were times that we made the same price, perhaps, on bars or sheets that the Steel Corporation's subsidiaries did, or that Jones & Laughlin did. I have no doubt that at times, without knowing it, we made practically the same prices?

Q. But was that pursuant to any understanding or agreement to that effect?

A. No, sir.

Q. How do the facilities of the Inland Steel Company for assembling its raw materials and shipping its finished products compare with the facilities of the subsidiaries of the United States Steel Corporation that you say are in competition with you?

A. I should say they were about the same, without knowing absolutely. I think the facilities are practically the same in our district as those of the Illinois Steel Company or the Indiana Steel Company. I think they are all coupled up about the same to the railroads, and reach the railroads probably in the same way.

Q. And for transporting your ore from the mines is there any difference in their facilities and yours?

A. Not that I can imagine, unless they had a little better boat or a little better engine or a little better crew, but we have the same opportunity that they have got, and if we do not manage our boats as well, it is our own fault, isn't it?

Q. You are familiar, in a general way, are you not, with the Mesabi range?

A. Yes, sir; I used to go there a great deal, shortly after it was first opened up, and a great many times since, on trips to see our own mines, and on other trips.

Q. You have seen the mines owned by the Steel Corporation on the range?

A. I have seen almost all the principal ones up there, owned by the Corporation and others.

Q. You are very familiar with that district?

A. Not as familiar as the people that live there, but with the best opportunities I had I made myself familiar with it.

Q. I will ask you this question: from your knowledge of the iron and steel business, the relative capacities of those engaged in it, the capitalization of the United States Steel Corporation, its ownership of railroads, its connection with financial interests, state whether or not in your judgment it has the potentiality, if it uses it, to destroy its competitors?

A. No; that is absurd. They cannot do it. I think it is a physical impossibility. I cannot imagine how they could do it.

Q. Is there any possible doubt in your mind of the ability of the Inland Steel Company to maintain itself in any kind of competition?

A. Well, that is what we are aiming to do. We think so. We think we are getting as well prepared as most of our competitors by the money that we have spent there; and I believe it has been spent on the right lines. I know that we would not change any of it if we had it to do over again, as far as we have gone.

Q. And you are very well integrated, as you have stated?

A. Yes; we did the best that it was possible to do.

Q. Mr. Thompson, you stated in answer to my question a short time ago that the competition between the Inland Steel Company and these other companies had been active in the territory that you serve?

A. Yes, sir.

Q. What do you mean by "active"?

A. Always at it. We were always trying to get business. I don't know how to express it any stronger than to say that we were all looking for trade, in an active way, all the time,

keeping ourselves posted on conditions and soliciting business from just such men as the witness who was examined here this morning, and from other railroads; I say it is active because we are always at it—all of us.

Q. All of you are always at it?

A. Why, certainly.

MR. SEVERANCE: You may examine, Judge.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Thompson, you stated that you had the same facilities for assembling your raw product, preparing it for the market and selling it as did the subsidiaries of the United States Steel Corporation which competed with you, didn't you?

A. I understood the question in and around Chicago.

Q. Oh, you want to confine it to in and around Chicago?

A. If I remember, that was the question asked me, yes, sir.

Q. And that is what you meant by your answer, was it?

A. Yes, sir.

Q. You did not understand that question to involve anything about ore, then?

A. There was nothing said about that.

Q. That is your recollection, and that is the way you intended to answer it, was it?

A. Yes, sir.

Q. Well, have you any ore roads?

A. No, sir.

Q. Do you not think if you had roads that went from the ore fields, and that your competitors hauled over your roads, and you got the profit, if there were a profit, over and above the cost of transportation, that that would give you some advantage over your competitors who turned that ore into steel and sold it against you?

A. Well, that is possible; yes, sir.

Q. Is it not true, Mr. Thompson?

A. Well, sir; I am not a railroad man, and I cannot answer

that absolutely. It would not pay us with our small tonnage to build a road to try to get the profit, whatever there might be in the haul--to invest our money.

Q. I am asking you, though, as an expert steel man, if you were large enough in your output and tonnage to build a railroad, and owned a railroad over which your competitors shipped and paid you a freight and a profit over and above the cost of transportation, would not that give you an advantage over those competitors who sold the same finished product that you did in the market?

A. There is no doubt about that; it would give us an advantage; how much I do not know.

Q. Do you know the Lake Shore & Eastern Railway Company?

A. Do I know of the Lake Shore Railroad?

Q. I mean the Chicago, Lake Shore & Eastern Railway Company; do you know where that road is?

A. Well, yes, sir; in a general way. I have never been over the road altogether.

Q. Do you know where the Chicago & Kenosha Railroad Company is?

A. Never heard of it. Chicago and Kenosha? No, sir; I do not know anything about it.

Q. Do you know where the Chicago & Southeastern Railway is?

A. No, sir; I do not.

Q. Do you know where the Joliet & Blue Island Railway Company is?

A. Yes, sir; nearly so.

Q. And do you know where the Milwaukee, Bay View and Chicago Railroad Company is?

A. No, sir.

Q. Do you know where the Elgin, Joliet & Eastern Railway is?

A. Very nearly; yes, sir. I have never been over the road.

Q. Do you own any such railroad as that?

A. No, sir; we do not own any railroads.

Q. Do you know who owns that railroad?

A. No, sir; I do not know the owners.

Q. You do not know whether the United States Steel Corporation owns and controls them?

A. They never told me so. I have heard so, but I do not know that.

Q. They have never told you so?

A. No, sir.

Q. You have no such facilities as that, have you?

A. We have not any railroad at all, sir, except a few tracks around our own works—inside our own works.

Q. Now, you stated that from your knowledge of the iron and steel business and the relative capacities of those engaged in it, the capitalization of the United States Steel Corporation, its ownership of railroads, its connection with financial interests—you were asked to state whether or not in your judgment it has the potentiality, if it used it, to destroy its competitors, and you said that would be absurd?

A. I still think so. I have no reason to change it.

Q. What railroads does it own, that you know of?

A. I understand they own two on the iron ranges, the Duluth & Iron Range, and the Duluth, Missabe & Northern, and a railroad from Conneaut to Pittsburgh.

Q. If you had a railroad like that, it would give you an advantage over your competitors, would it not?

A. Probably so; yes, sir.

Q. Now, what are its financial connections? Do you know what they are, the United States Steel Corporation?

A. No, sir; I do not; that is, I have no positive knowledge.

Q. What is the capacity of the United States Steel Corporation per annum in ingots—steel ingots?

A. Now, let me see. That is a matter of figures which can be gotten at.

Q. Oh, yes; I know.

A. In 1912, do you mean?

Q. Well, I will say 1912, if you know that.

A. Well, it is somewhere around 12 to 14 million tons. I cannot be accurate. Those statistics are published and I think 1912 is out. I do not think I have seen them.

Q. So far as you know, it was about 14,000,000 tons?

A. Yes, sir; that is my recollection. Let us see. I think

we were making about 28,000,000 tons, and figuring the Corporation's fifty per cent. would be about 14,000,000; yes, sir. That is practically right; it may be a million out of the way.

Q. How much did you say in ingots you made in that year?

A. I think in 1912 about 28,000,000.

Q. About 28,000,000?

A. Yes, sir.

Q. You mean the entire country?

A. Yes, sir; in the United States.

Q. But I asked you what you made.

A. Oh, what the Inland Steel Company made?

Q. Yes.

A. In 1912?

Q. Yes.

A. I have not the figures, but I should say about 350,000 tons.

Q. Do you think that a concern of 350,000 tons is just as strong as a competitor that makes 14,000,000 tons?

A. Sometimes stronger.

Q. Is it generally stronger or not?

A. Well, no, I would not say they are generally stronger.

Q. Which way is it? Which is generally the strongest, and which has the greatest power in the market?

A. Of course, a man that produces 14,000,000 tons has got a wider distribution of his markets, and probably is stronger in the selling end, although I do not know that that is of any particular advantage, so far as profits are concerned.

Q. If he has a wider distribution of market—a very much wider distribution of market, can he not make one part balance as against the other and, in that way, if he chooses, make himself stronger in one quarter at times, if he chooses to exert his strength in that quarter, by reason of this large distribution?

A. That is true, and a larger diversity of product. That has a good deal to do with it, you know.

Q. And a concern that has a larger diversity of product, that has a world-wide distribution, that has a greater variety of markets, can develop in any particular territory more

strength than one which in that territory is more circumscribed in its market, can it not?

A. Certainly; that is natural.

Q. Does the question of capital and ready capital give one strength in the control of business?

A. It surely does.

Q. Now, suppose your company carried a deposit of something like \$70,000,000; would that be helpful in your business, and strengthen you as against your competitors?

A. Why, not particularly; no, sir, if we have ample without it. If we have enough to finance our business and carry our commercial trade, enough is enough. It would not be of any particular advantage to have a whole lot more, would it?

Q. And your knowledge of business does not lead you to any perspective by which you would derive any advantage from having command at all times of a large capital of that sort?

A. If we wanted to extend or build, yes.

Q. Suppose you wanted to accommodate customers, could you do it?

A. Of course the larger capital you have got, the longer you could accommodate a customer, but the general rule in the steel business is thirty days credit.

Q. That is your rule, is it?

A. Yes.

Q. Do you know that it is everybody else's rule?

A. Why, practically yes.

Q. Do you know that there is no variation from that rule?

A. There is always variation.

Q. There is always variation?

A. Certainly.

Q. In that kind of instances, why, then, a large capital would be a potentiality, would it not?

A. There is no question that it would be.

Q. You do not claim to be as familiar with the strength and capacity and potentiality of the Steel Corporation as Judge Gary, do you?

A. I should not be.

Q. You do not think you are?

A. Certainly not.

Q. And on a question of potentiality, as relating to competitors, you would rather take his judgment than yours, would you not?

A. I would give it a great deal of consideration.

Q. If he thought that that had a potentiality to put competitors out of business, if they chose to exercise the power, you would think he knew, would you not?

A. He might think so and still be mistaken.

Q. Yes, but I mean to say, knowing his own concern better than you do, his judgment would be entitled, in your estimate, to more weight than your judgment, would it not?

A. It would be probably in the minds of the public.

Q. In your own mind, would it not?

A. That is a pretty hard question to answer in the way you put it. Of course you state, if we had seventy millions of dollars credit, it would make us very much stronger to do larger things. I say we do not need that much, have no use for it.

Q. I am not asking you anything about seventy millions of dollars.

A. You stated that amount.

Q. I know I did, but I passed from that, and I am now asking you simply whether or not you would set your judgment up against Judge Gary's as to the potentiality of his Corporation.

A. No, sir; I would not.

Q. Now, do you know, in the year 1912, what was the tonnage or output of the United States Steel Corporation in standard rails?

A. No, sir. It is a matter of statistics and can be very easily ascertained. I do not know exactly; no, sir.

Q. Do you know anywhere near it?

A. I would guess at around two million and a half to three million.

Q. Two million and a half to three million tons?

A. That is just an offhand guess.

Q. It is a guess?

A. It is not actual knowledge, but it is very easily ascertained.

Q. I understand, but I am asking you if you knew.

A. No, sir.

Q. You admit that is a guess?

A. Yes.

Q. How about plates? Can you give the tonnage in 1912?

A. No.

Q. Can you approximate it?

A. No, sir; I cannot, because there are a good many new plate mills built and increased in the last year or two, and I have sort of lost track. You asked me about plates, and I said I did not have it in mind, because up to very recently we have not made any large plates, and I am not as familiar with that end of the business as some others.

Q. What new plate mills were built in the year 1912?

A. There was one finished by the Republic at Youngstown, Ohio, that I know of. Ours was started in 1912, but not finished until this year.

Q. What others were built in 1912?

A. I do not know that I can recall any. There have been some enlarged.

Q. What were enlarged in 1912?

A. I cannot answer that without going over statistics, and that is all a matter of record too, to a dot.

Q. When you said a good many were built in 1912, so far as your actual knowledge goes, you can only give one?

A. No, I gave you two. Oh, in 1912?

Q. Yes.

A. Yes, that is right.

Q. What were built in 1913?

A. Well, we finished ours perhaps a month ago.

Q. Do you know any others?

A. I do not just recall; no, sir.

Q. So, if there were a great many built you cannot name any except that one?

A. I perhaps said that a little too strong. If I said a

great many, I should perhaps have said a few. You can correct that, and say a few.

Q. You have corrected it now after you have been cross examined on it.

A. Well, let that be.

MR. SEVERANCE: His attention has been called to it. It is hardly necessary to speak that way to the witness, I think.

By MR. DICKINSON:

Q. Who are the principal competitors of the United States Steel Corporation? Just name them.

A. Well, commencing in the east, I suppose the Bethlehem, the Maryland Steel Company, the Pennsylvania Steel Company, the Cambria Steel Company, Jones & Laughlin, the Lackawanna Steel Company and the Youngstown Sheet & Tube; La Belle Steel Works, ourselves, the Inland Steel Company. Those are the larger ones; there are a great many small ones.

Q. What is the capitalization of the Bethlehem?

A. Well, as I recall it, it is about fourteen million and a half preferred, and fourteen million and a half common. That is a matter of record; I am not betraying any secret. It is published, I guess, in Poor's Manual.

Q. That would be twenty-nine millions?

A. Yes; I am not very far wrong.

Q. What was the output of that company in 1912 in steel ingots?

A. That I could not answer. It is a matter of record.

Q. Can you approximate it?

A. I should say something like 1,000 or 1,200 tons a day. That is only a guess; I would not like to say, but it is a matter of record in Poor's Manual.

Q. Well, I just wanted to see what is written down in your mind. So all you can give is a guess at it?

A. Yes. I could not give you positive figures on the output.

Q. So that you cannot say that you know what its capacity is?

A. No, sir; I do not, exactly.

Q. You do not know it approximately either, do you?

A. I would say no, then.

Q. Take the Maryland in the year 1912. What was its capacity in steel ingots?

A. I do not know that I ever had it brought to my attention. I couldn't say.

Q. And the Pennsylvania?

A. I couldn't answer that.

Q. The Cambria?

A. I should say about 1,000 tons a day.

Q. Have you any knowledge of that, or is that a guess, like the other was?

A. I think I heard—I was talking with one of the vice-presidents, Mr. Replogle, in Chicago, and my recollection is that he said they were finishing about 1,000 tons a day. That would make the ingot capacity perhaps 1,200. That is conversation, and I did not pin him down; he just volunteered the information.

Q. That is all you know about that, is it?

A. Yes.

Q. Coming back to the Maryland, what is the capitalization of that?

A. I do not know. I haven't it in my mind. I do not know as I ever saw it.

Q. And the Pennsylvania?

A. I could not answer that either.

Q. And the Cambria?

A. Let us see. I have seen that; I am pretty sure I am right—\$45,000,000.

Q. What is the capitalization of Jones & Laughlin?

A. Without positive knowledge, I think it is \$30,000,000.

Q. Was that what you had in mind when you answered the question in regard to the potentiality of the Steel Corporation?

A. Which?

Q. The capitalization of Jones & Laughlin?

A. No, sir.

Q. Did you have anything in mind as to capitalization?

A. No, sir.

Q. Did you have anything in mind as to the capitalization

or the output or capacity of any of these companies I have mentioned?

A. No, sir; I had in mind the capacity of the works and their location and products, without reference to capital. I did not have capital in my mind at all when I was answering those questions.

Q. The capital is a very important thing, is it not, in regard to the strength of a competitor.

A. It has some weight.

Q. Does it not have a great deal of weight?

A. Certainly.

Q. And you did not have that in mind when you answered that question?

A. No, sir.

Q. Take Jones & Laughlin; what was their output in ingots in 1912?

A. That I cannot answer.

Q. What was their capacity?

A. I cannot answer that from knowledge. They have increased very largely in the last two years.

Q. The Lackawanna for that year: Do you know the capacity or output in ingots?

A. Not positively; no, sir.

Q. Can you give it approximately?

A. The Lackawanna, in ingots?

Q. First, give the capitalization.

A. I had that in mind once, but I cannot answer that now.

Q. When did you last have it in mind?

A. Sometime when I was reading over the statements of the corporation.

Q. That has not been to-day, has it?

A. No, sir.

Q. The output in ingots; can you give that for 1912, for the Lackawanna?

A. I can only make an approximate guess at it; say about 1,000 to 1,200 tons a day.

Q. That would be purely a guess, would it?

A. It would not be such a very bad guess; somewhere in that neighborhood. It might be as high as 1,500, but I don't think so.

Q. That would not be such a very bad guess, but it might be a moderately bad one, might it?

A. I am only just guessing.

Q. All right, let it go at that.

A. I am doing the best I can.

Q. On guessing?

A. Yes.

Q. Take the Youngstown Sheet & Tube Company: What is the capitalization of that?

A. That has changed in the last year, My recollection is it is \$5,000,000 preferred and \$20,000,000 of common; that would be \$25,000,000.

Q. What was the output and capacity in ingots of that company for 1912?

A. I should say about 750,000 tons.

Q. Is that a guess, like the others?

A. It is not a very bad guess.

Q. I know, but still it is a guess, just the same as the others?

A. Certainly it is not absolute figures.

Q. Now, the La Belle; what is the capitalization of that?

A. That has been recently increased. My recollection is that it is about \$20,000,000. I could not be very positive about that.

Q. How about the output and capacity in ingots for 1912 of the La Belle: Can you give any more than a guess in regard to that?

A. Yes; they ought to do about the same as we do at our works; something like 350,000 tons a year.

Q. I have asked you about 1912; can you give any nearer figures as to 1913 as to the capacities and outputs of these various companies than you have given?

A. No; because they have all been increased some and the 1913 figures are not yet available.

Q. You do not know what they are?

A. No, sir.

Q. You do not know what their present capacity or output is?

A. I would say they are a little larger than in 1912.

Everybody has been running a little bit fuller up to the present time; that is, our capacity has been pretty well pressed and taxed; so that I should say it was, if anything, more. It would be very easy to ascertain those figures definitely.

Q. Your capitalization, you stated, was how much?

A. A little less than \$8,000,000.

Q. And you have a limited territory?

A. What do you mean by that?

Q. I mean for sale, as compared with that of the United States Steel Corporation?

A. No, sir; we sell pretty generally in most states they do.

Q. Do you sell east of Indiana?

A. No.

Q. There are some states, then, in which you do not sell, where they do; is not that a fact?

A. I say, in the western territory. I did not say in the eastern territory. I say in most of the western states.

Q. Then your territory is confined largely to the western states?

A. Certainly.

Q. And they sell all over the United States, do they?

A. Yes, sir; they have plants in the east as well as in the west.

Q. To what extent do you sell in the foreign trade, excluding Canada and Mexico?

A. None at all.

Q. What is the capitalization of the United States Steel Corporation? Do you know?

A. I think almost everybody ought to know that. We have seen it so many times.

Q. What do you think it is?

A. It is something like \$360,000,000 preferred and \$508,000,000 of common. You can correct me if I am not right.

Q. I am not trying to correct you on anything.

A. I want to get it as nearly accurate as I can.

Q. I am indifferent about that.

Do you know what the amount of bonds is on it?

A. Not exactly. I have seen that stated. It is upwards of \$550,000,000 or \$600,000,000.

Q. Has your concern any bonds on it?

A. Yes, sir.

Q. Were the bonds included in the \$8,000,000 you mentioned?

A. No, sir.

Q. How much are the bonds?

A. Let me see; the last annual statement, which is a matter of record, shows that exactly. That is what you want, is it not?

Q. I am content with whatever you say about it.

A. On June 30, 1913, \$4,750,000.

Q. Do you know what the annual capacity of the United States Steel Corporation is in wire rods?

A. No, sir.

Q. Do you know what percentage it produces in wire rods as compared with all the wire rods produced in the United States—steel, I mean?

A. That would be a guess.

Q. Do you know what its capacity is in tin plate?

A. No, sir.

Q. And its relative percentage of production as compared with the whole product of the United States?

A. No, sir; I do not remember ever seeing those statistics. If I have I have not fastened them in my mind.

Q. Do you know anything about its business in tin plate?

A. No, sir.

Q. In wire?

A. Only in a general way, as we do not make wire goods at all.

Q. The subsidiaries of the United States Steel Corporation, taking them all together, make a great variety of products in large quantities, that you do not make at all?

A. Yes, sir; certainly.

Q. How about structural steel: do you make any of that?

A. We do not make the larger sections; no, sir.

Q. How about pipe?

A. Not at all.

Q. You do not make that at all?

A. No, sir.

Q. Do you know the capacity of the Corporation in structural as compared with the capacity of all of the producers in the United States?

A. No, sir.

Q. And in pipe, do you know what their capacity is?

A. No.

Q. And the percentage as compared with all others?

A. I do not; no, sir.

Q. Do you know it in bars?

A. No, sir; I do not.

Q. You stated, I believe, that you had quite a long experience in the ores in the lake region?

A. Well, that depends on the kind of experience; I have been going up there a great deal; yes, sir.

Q. Now, you have been a buyer of ore lands, have you not?

A. Yes, sir.

Q. And have leased ore lands?

A. Yes, sir.

Q. And have sold ore lands; that is to say, you have turned them over to your company?

A. Yes, sir.

Q. So it was a sale, so far as you were concerned?

A. Absolutely; yes, sir.

Q. And you are now interested in ore lands?

A. Yes, sir.

Q. How far back does your experience and knowledge of the ore lands in the lake region go?

A. Well, pretty generally after the year 1892, when the Mesabi range was discovered.

Q. And from 1892 down to the present time——

A. Yes, sir.

Q. (Continuing) —have you been interested there?

A. I think so.

Q. In ore properties?

A. Yes, sir; all the time, either directly or indirectly.

Q. Prior to the year 1902, what was the highest price that you ever knew to be paid for free ore in the ground, per ton?

A. 1902?

Q. Prior to 1902?

A. I could not answer that absolutely certainly.

Q. Did you ever know of any to be sold where the price was higher than fifteen cents a ton?

MR. SEVERANCE: Do you mean a purchase outright or a lease?

MR. DICKINSON: A purchase outright.

THE WITNESS: That is fifteen cents a ton for the measured-up ore at that time?

By MR. DICKINSON:

Q. Yes.

A. No, I do not recall any higher price than that. You say since 1902?

Q. No; previous to 1902.

A. No; I do not remember any ore property selling higher than that previous to 1902.

Q. You spoke of measured-up ore. For estimated ore it would be still less, would it not?

A. Well, that would depend on the kind of trade, you know, that the buyer and seller would make. In the Mesabi ore properties you can drill them and test them up almost accurately as to the amount of ore that is in a given forty.

Q. Well, either estimated or measured up, whichever way you take it, you never knew, prior to 1902, of a higher price being paid than fifteen cents a ton for fee ore in the ground?

A. None that I can recall.

Q. Since that have you ever known a higher price to be paid, and if so, when?

A. I do not have any positive knowledge; no, sir, because I never bought any fee ore. Ours was all subject to a royalty.

Q. But you have inquired the price of ores there, have you not, when you were prospecting or looking around for the purpose of either buying or leasing?

A. I never did any prospecting myself.

Q. I do not mean "prospecting" in the sense of going out and digging holes in the ground, but——

A. I got all the information I could get, one way and another; yes, sir.

Q. And you got it for the purpose of knowing how to spend your money, did you not?

A. Yes, that was the object.

Q. And you used your best opportunities and best judgment?

A. Yes, sir, and did it as intelligently as I could.

Q. Now, prior to 1902, what was the highest price you ever knew to be paid as royalty for ore in the lake regions?

A. As I recall it, fifty cents a ton.

Q. Prior to 1902?

A. Yes, sir.

Q. Where was that?

A. Well, I think it was one of the properties that Mr. Kimberly—a leasehold that he got. I think the original royalty was fifty cents.

Q. When was that?

A. That was in 1893 or 1894. It was early in the game; that is, early—soon after the Mesabi ore was discovered.

Q. Now, then——

A. It was afterwards reduced, though, to thirty cents.

Q. It was afterwards reduced to thirty cents?

A. Yes, sir.

Q. Now, in 1900 or 1899 what was the highest you ever knew?

A. For fee?

Q. No; I am speaking now of a royalty.

A. For a lease?

Q. Yes, a lease.

A. Royalty?

Q. Yes.

A. Well, prior to that time I do not know that I heard of anything higher than fifty cents.

Q. Prior to what time?

A. 1899 or 1900.

Q. But you said you heard of one instance, 'way back earlier, and you said it was reduced after that, did you not?

A. I said it was reduced to thirty cents.

Q. Yes.

A. I know that.

Q. After it was reduced to thirty cents, did you ever hear of any in 1899 or 1900 or 1901 that was higher than thirty cents? If so, which one was it?

A. I cannot answer that. I have not any positive knowledge.

Q. Well, what was the general rate, then?

A. Oh, along about 25 to 40 cents, in a general way.

Q. 25 to 40 cents?

A. Yes, sir; in a general way.

Q. Do you know when the Hill lease was made?

A. Yes, sir; 1907.

Q. Up to that time did you ever hear of any royalty being paid in that region as high as that that was paid under the Hill lease?

A. None that I know of.

Q. Did not that price sort of set people crazy on prices there in that country?

A. Well, I do not know what you would call "crazy." It got them excited about it; yes, sir.

Q. What would you call "crazy"? Would that be a form of expression——

A. Well, a crazy man is different than an excited man.

Q. Yes.

A. They did get excited over the prices of ore, sure, but I do not know that they got so crazy that they had to go to an asylum, or anything like that.

Q. Oh, no; I did not mean that. They stopped short of the asylum, but got very much excited, did they?

A. Yes, sir; that may be so.

Q. And that was on account of the price of that lease?

A. I think it had some influence.

Q. Well, did it have a great deal to do with it?

A. Probably.

Q. Now, from the year 1900 down to the present time, have not the Lake Superior ores been the basis of the large bulk of the steel industry of the United States?

A. Yes; a larger percentage of them, sure. Of course, there is a great deal of pig iron made in the Southern States, but the larger percentage, the basis, of course—the largest percentage of iron and steel depends on the Lake Superior district; did and has for a long time.

Q. Would you not say that something like 80 per cent. of the steel industry has depended upon the lake region, and has been depending upon it for twenty years?

A. That would be a little high.

Q. How about 75 per cent.?

A. 60 to 70 per cent.

Q. Exceeding 70?

MR. SEVERANCE: He did not say “exceeding 70”; he said 60 to 70.

THE WITNESS: Yes, 60 to 70. Two-thirds would be perhaps right. Say 66 per cent.

By MR. DICKINSON:

Q. Now, being engaged in the steel business, do you keep yourself generally posted as to ores, and the development of ores, and their discoveries?

A. As much as possible.

Q. In all parts of the world, do you not?

A. No, I would not say that.

Q. I mean, as far as they have been brought to the attention—

A. Whatever comes to our attention; yes, sir.

Q. And you keep alert on that subject, to be posted, do you not?

A. Yes, sir.

Q. In your judgment, how long will the larger percentage, say, oh, from 60 to 65 per cent. of the steel industry of the United States, be dependent upon the Lake Superior ores?

A. That is a question that can only be told by a prophet, who can tell you what the consumption of steel products will be, and how much the consumption of ore will be. You can only guess at that.

Q. I know, but I want to see what kind of a prophet you will be, and I would like to get your judgment.

MR. SEVERANCE: I will enter an objection to that as purely speculative; necessarily so.

MR. DICKINSON: Well, I will get Mr. Thompson's opinion on it, anyway.

By MR. DICKINSON:

Q. You have expressed an opinion on that, have you not?

A. Oh, I should, at a guess, say 25 to 30 years; perhaps 35 years. There is a tremendous lot of low grade ore up there that is going to be treated and brought up; billions of tons of low grade ore that somebody will treat and ship in place of the higher grades, when it becomes necessary to do it. I am not taking that into account, because there are vast quantities of that, which runs 40 to 42 or 43 per cent.

Q. And if that be taken in it might enlarge that period, might it not?

A. Yes, it might run 50 years; I do not know.

Q. Now, Mr. Thompson, you keep the run, do you not, of the statistics of ore production in the United States?

A. Yes, sir; I see it every year.

Q. Do you not know that last year, 1912, the production from the lake region was about 84 per cent. of the entire production of the United States?

A. I think that is about right, but the production was not all consumed. There was a lot of it brought down that was not used up until this year; put on the docks.

Q. If there had been a demand in the steel industry it might have been consumed?

MR. LINDABURY: Is he speaking of what was consumed in the United States?

MR. DICKINSON: No; I was asking about the production. That is all I asked him about.

MR. LINDABURY: He has not stated that that was the percentage of what was consumed in the United States.

MR. DICKINSON: No; I didn't ask him that.

THE WITNESS: No; we do not always consume all the ore that is brought down in the year it is brought down. We carry it over in the docks, a large quantity.

By MR. DICKINSON:

Q. In 1910 did not the Lake region produce about 80 per cent. of all the ore produced in the United States?

A. I would not be surprised; that is possibly right, I cannot recall the figures.

Q. What do you think about that?

A. Well, I should say that is approximately right, yes.

Q. Approximately right?

A. Yes; that is the way I have it in my mind; that is approximately right.

Q. How long before the Republic began to manufacture steel was it?

A. Why, they commenced in either 1901 or 1902; I am not just dead sure which. They started to put up the works in 1900, and I think they were a little over a year getting their converters started.

Q. So if they made any in 1901 it would be hardly appreciable, would it?

A. It would not be very much; no, sir.

Q. You spoke of the ores in the Cuyuna range; is it difficult or not to prove up the ore there?

A. You cannot prove it up like you can the Mesabi.

It runs in veins something like the old ranges, where they cannot measure it up and determine; and sometimes in the old range, you know, you will strike a good streak of ore and it will measure up good for years, and then it will play out, but you can discover some more. On the Mesabi the ore lays flat, and you can drill it and measure it up almost accurately.

Q. And on the Cuyuna you cannot take any given area and strike an average?

A. You can make a pretty fair estimate on a well drilled forty.

Q. But it must be well drilled?

A. It must be well drilled, yes.

Q. What is the metallic content of your ore that you spoke of on the Cuyuna range?

A. What we brought down is about 55.

Q. Is that dry?

A. Yes, dry; there is some higher than that, and some lower, but the average is about that.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. It is a fact, is it not, that new mines are constantly being discovered on the Lake Superior ranges?

A. Some new mines and some of the old mines are being extended very materially.

Q. So that it is impossible to tell now when the ores, even the high grade ores in that region, will be exhausted?

A. They are pretty well exhausted now; that is, the very high grades.

Q. I know, but what you call good merchantable ore now? I am distinguishing now.

A. There is lots of it that may not be developed.

Q. In speaking of high grade I am distinguishing between what you speak of now and what you stated a moment ago as billions of tons that would have to be treated in the future?

A. Yes.

Q. It would be impossible to give a definite estimate as to how long the ores presently merchantable will last, in view of the new discoveries that are constantly being made?

A. It would be only a partial guess. My own judgment is that the steel business is not going to double up every ten years as it has in the last four or five decades. You cannot do it; it will slow down a little. That is to say, in 1900 the production of iron was so much, and in 1910 it was double that. Well, they are not going to keep on doubling forever; there has got to be a stopping place.

Q. You stated a few moments ago in answer to counsel that the capitalization of your company was about \$8,000,000?

A. It is a little under.

Q. And that you had \$4,750,000 of bonded debt?

A. That is right.

Q. Have you also an accumulated surplus in your business?

A. Yes.

Q. Accumulated out of the profits of the business?

A. Yes.

Q. How much has that amounted to?

A. It shows there exactly.

Q. I am asking you to state it for the record. You have the statement before you that you used in answering Judge Dickinson?

A. Yes. On June 30th it was \$4,786,412.

Q. In giving a list of the large competitors of the Steel Corporation did you intentionally overlook the Republic? You did not mention them.

A. Didn't I?

Q. No; you didn't mention the Republic.

A. I did overlook it. I intended to.

Q. You intended to speak of it?

A. Yes, because it is.

Q. You were asked for your information as to the capitalization of a number of these competitors and you gave it as far as you were able to.

A. That is something I do not like to do, because it is so easily ascertainable, and I have friends in all of them, and if they see some of my wild statements, they will say "He is pretty good at figures, but he is getting off on this." I do not like to go on record in that way.

Q. The estimate you gave as to the total output of those plants was your best estimate from your general knowledge of the steel trade, was it not?

A. Yes; I can first consider the number of blast furnaces they have, and the size of their blooming mill, and you can make a pretty good guess from that.

Q. Is the Republic Iron & Steel Company a fairly large concern now?

A. Yes; they have extended their plant. In the last two or three years they have added open hearth furnaces, which they never had. Originally they had iron mills, and they got into the Bessemer steel business in 1900; since that time they have gone to the open hearth.

Q. Where are their open hearth plants?

A. Youngstown, Ohio.

Q. Do you know anything about the tonnage output of the Republic, or the capacity, either one?

A. Yes; I have a pretty good idea.

Q. How much is it?

A. I should say that with their open hearth furnaces and Bessemer steel plant running full they could produce, exclusive of their iron mills, which are pretty near all closed, in round numbers a million tons a year of ingots, easily; if they are running full that is their capacity.

Q. Now, these other companies like Jones & Laughlin, the Cambria and the Bethlehem, and so forth, they have bonds on their property as well as stock?

A. Yes, I think most of them.

Q. Which would be added to the capitalization shown by the stock?

A. Well, in my statement of capital I did not consider the bonds at all. I was asked for the capital, and as to the underlying bonds, I did not consider them.

Q. But it is capital invested in the property, and you would have to take that into account also?

A. Yes; a bond is capital as much as capital stock.

Q. You do not carry in your mind the amount of bonded indebtedness of any of these companies, or do you?

A. No, I would not like to state it, not knowing accurately what it is. It is very easy to get that from Poor's Manual, absolutely accurate, and I hate to make guesses and get away out of the way on it.

Q. Mr. Thompson, you were asked by counsel if the Steel Corporation did not have some advantage over its competitors by reason of owning the Iron Range and Missabe roads hauling ore, and you answered that there would be some advantage in that.

A. Surely.

Q. Assuming that the rates prevailing on those roads were no greater than would fairly compensate the owner of the roads, in view of the value of the same, give a reasonable return on the investment, would there be any advantage possessed, then, over a steel industry that shipped over, say, the Great Northern or the Soo?

A. Not so far as delivering the raw material to the furnaces is concerned. They might have advantages in other ways on account of their location and various markets, the large number of plants they have, and so forth.

Q. But I am confining this wholly to the railroad matter. If the rates are only such as to fairly compensate for the service performed, and give a reasonable return upon the investment in the roads, then that would merely be a return upon an investment, such as any property owner might have, and would be no advantage from a manufacturing standpoint, would it?

A. No.

MR. DICKINSON: I object to that as leading and improper.

MR. SEVERANCE: I will change the question.

MR. DICKINSON: No; leave the question.

MR. SEVERANCE: I will put another question to cure your objection.

By MR. SEVERANCE:

Q. Assuming, as I said before, that the rate was only reasonably compensatory, considering the investment in the property and the cost of performing the service, would the Steel Corporation, as the owner of the Iron Range and Missabe, have any advantage over you or any other person who was shipping over another line of road at the same freight rate?

A. I cannot imagine where it would be, if they have any.

Q. You have just as good facilities for transporting down the lake with your vessels as they have with theirs?

A. Certainly. Absolutely, yes.

Q. Then you are on a parity as to that?

A. Yes.

Q. And you are on a parity as to assembling at Chicago?

A. Yes; so far as Chicago is concerned, that is true.

Q. It would not make any difference to the Steel Corporation, as a matter of dollars and cents, would it, then, if the rates only provided a reasonable return upon the investment and the cost of the service, whether they shipped over the

Iron Range or the Missabe or over the Great Northern, at similar rates? Would it make any difference?

MR. DICKINSON: That is objected to as leading, and because counsel is arguing with his own witness.

MR. SEVERANCE: I am not arguing at all. I am just asking a question.

MR. DICKINSON: That is a difference of opinion, of course.

THE WITNESS: Stating it as you do, it would put us all on a parity, of course. There is no question about that.

By MR. SEVERANCE:

Q. The answer that you gave to Judge Dickinson was in response to a question as to whether there was an advantage if there was any return or profit above the cost of operating the railroad, and you intended to answer it with reference to the question as put, did you not?

A. Yes.

Q. And you did not take into account any interest on the investment in the road at all, because that was not included in his question?

A. No.

MR. DICKINSON: This is objected to as leading, and arguing with his own witness.

By MR. SEVERANCE:

Q. Did you take into account, in giving that answer, the matter of any interest upon the investment?

A. No, sir; I did not.

Q. Counsel asked you whether you would claim to have as intimate a knowledge of the Steel Corporation as Judge Gary had, and you stated that you would not. What is your claim as to whether or not you have as intimate a knowledge as Judge Gary has of the Inland Steel Company?

A. Well, I ought to have more knowledge than he has; but the Judge is pretty well posted on the output of all the independents, just the same as we all are. The statistics are all open and above board, and anybody can read them. They are published.

Q. And you can read the statistics of the Steel Corporation, can you not?

A. Certainly, I do; yes, sir.

Q. And are the statistics of all the companies open to you as well as to Judge Gary?

A. I would not say all of them, because some of them do not give out as much information as others.

Q. You have the same facilities for acquiring information as to those that do make public their statements, have you not?

A. I should say so; yes, sir.

Q. And do you follow those matters?

A. We make a statement only once a year to our stockholders. Some do it every six months and some every quarter. We do it once a year.

Q. Do you see those as they are published from time to time by different people?

A. Mostly, yes; all that are published. We are naturally interested in reading them over to see how much they are beating us, so that we may get a move on and see if we cannot help a little. Of course, we are interested, the same as we are all interested in reading those.

MR. SEVERANCE: That is all.

MR. DICKINSON: That is all.

H. H. HAMMOND

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. I believe you are a lawyer by profession, Mr. Hammond?

A. Formerly; yes, sir.

Q. Are you now connected with a steel industry?

A. Yes, sir.

Q. When did you become connected with it directly?

A. In 1905.

Q. Before that you were counsel for the concern?

A. Yes, sir.

Q. For how many years?

A. For about eight years.

Q. Do you hold any office in the corporation?

A. Yes, sir; I am treasurer.

Q. How long have you been treasurer?

A. Since 1905.

Q. What is the name of the concern?

A. The McMyler Interstate Company.

Q. Where is it located?

A. In Cleveland.

Q. What does it manufacture?

A. We manufacture a general line of machinery for handling coal and iron ore, such as cranes, car dumpers, bridge tramways, and so forth, and a full line of orange-peel and clam-shell buckets—in fact, we claim to make all kinds of appliances for handling all kinds of material. We also fabricate structural steel for building work.

Q. What was the size of this concern in 1900?

A. In 1900 the company was very small. I should say its net worth was probably not more than \$100,000.

Q. How many men did it employ?

A. Not more than 50, probably, or 75.

Q. Has it grown any since then?

A. Yes, sir.

Q. Regularly?

A. Yes, sir.

Q. I mean, more or less evenly?

A. Yes, sir; some every year.

Q. How much has that net worth, as you call it, increased?

A. At the time I became active in the business the net book value of our company was about \$350,000. That was the 1st of July, 1905.

Q. That represented the growth since 1900?

A. Yes. At the close of the business year, 1912, the book value of the company, according to its statements, was about

\$2,350,000. That was at the beginning of this year, and there would be some increase, probably, since then. However, we do not know what it is. We close at the end of the year.

Q. Was that occasioned by the putting in of new capital, or did it result from the profits of the business?

A. Some part of it, a large part of it, resulted from the profits in the business, and some of it resulted from the taking over of a plant of a competitor that was ready to quit.

Q. Was any new capital put in?

A. No new capital was put in; no, sir, except that when we took over a plant of a competitor that was about to fail, we got their plant, and of course that represented capital, because it increased our output since the 1st of January, 1910; we are able to handle more stuff.

Q. What steel products do you purchase for your requirements?

A. We purchase a little of everything. Of course, making a miscellaneous line of equipment, we have occasion to use a little of all the stuff that they make, but principally bars—by that, I mean rivet stock; we make all our own rivets, and we buy the stock for them; and plates; we use a lot of plates and shapes. The other stuff, the general lines outside of those—the amount we use would be so small that it would not be worth considering.

Q. How long have you been buying shapes?

A. We have always bought some shapes; but not very much prior to the 1st of January, 1910.

Q. How long have you been buying bars and plates?

A. We have been buying bars and plates always, in proportion to the size of our business.

Q. Have you bought your bars and plates on a competitive basis?

A. Yes, sir.

Q. Have you usually purchased on contracts for future delivery, or in what way?

A. Well, we have sometimes purchased on contracts for future delivery; a certain percentage of our business would be that way; naturally, when we thought in our own minds that prices were going up, if we could buy something to come

along during the year to keep our stocks up in shape, why, we would do it. A certain percentage of our business also is covered by—for instance, when we take a certain specific contract, at the time of putting in our bid on that contract it is necessary for us to protect ourselves and contract accordingly.

Q. Do you obtain quotations usually when you are ready to buy?

A. Yes, sir.

Q. From whom, on bars?

A. From all the manufacturers; that is, from the ones that we do business with. We obtain quotations from the Carnegie and Cambria, and the Lackawanna, and J. & L.—Jones & Laughlin—and there are one or two little independent mills in Cleveland that we get quotations from sometimes.

Q. Do you ever invite quotations from the Republic?

A. We have never done any business with the Republic. I believe we have had two or three invoices from them in the past ten years, but not much; we do not know them.

Q. From whom do you obtain quotations on plates?

A. On plates it would be Carnegie and Jones & Laughlin and the Lackawanna, and the United Steel Company, of Canton, on certain sizes; they make the universal plates—the small ones—and Worth Brothers, and Otis.

Q. Have you found the quotations on these steel products generally variant or generally uniform?

A. We have found that, as a general proposition, there would be a variance in the quotations. Our business is strictly on the price basis. We have had no affiliations whatever with any mill in any way whatever, and my instructions to our purchasing department are to buy absolutely where the material can be bought to the best advantage, and, to the best advantage, to us, means where it can be bought for the least money, because the competition in our line of business is very keen, and we have to figure things right down to the last cent. Of course, there are times—there have been times, when some of the prices that we would get would be the same—some of them. Those circumstances would generally happen where the business condition throughout the country was very good,

where business was moving along smoothly, and where the mills were not after business. That was my own idea of it, but sometimes when there would be a break in business, or when there were signs of demoralization of business, there would be a greater fluctuation then or difference then than there would be at other times.

Q. Have you any means of telling what prices you paid during any of the years that you have been in business, for bars and plates?

A. Yes, sir; some. In 1904—that was before I was actively connected with the steel business—I knew something about it as representing one or two companies that were interested in the business, and I understood in a general way then that there was a pool or some kind of an understanding on plates, among the plate mills. I never knew very much about what it was, because I was not directly interested in it then, but in 1905, after that was broken up, we found in 1905 a considerable variation in plates, and I call to mind one particular time along in June, I think it was, 1905, where we bought—where we placed orders with various people for plates, on or about the same date, when there was considerable variation in price.

Q. Have you got a memorandum of the prices at which you actually placed those contracts?

A. Yes, sir.

MR. DICKINSON: Before he uses that, I would like to ask him something about it.

THE WITNESS: All right, sir.

MR. LINDABURY: I will do that, Judge.

MR. DICKINSON: Very well.

By MR. LINDABURY:

Q. When was that made up?

A. What do you mean? When was what made up?

Q. The memorandum that you have?

A. Why, within the last few days, at my office in Cleveland.

Q. From what?

A. From the original records.

Q. From the original records?

A. Yes.

Q. And what does it give or show?

A. Well, it gives the date upon which we placed the order, and the prices we paid for the material.

Q. And the concern to which you gave it?

A. Yes, sir.

Q. Please tell us what purchases you have memoranda of that were made in 1905, in plates, giving the name of the concern from which you purchased, the date, and the price?

MR. DICKINSON: I object to the witness using this memorandum, which is secondary evidence, based on the records which are themselves primary evidence, and which are not produced.

By MR. LINDABURY:

Q. That objection being made, I will ask you if you know whether or not the figures you have on that memorandum correspond with the contracts themselves?

A. Yes, sir.

Q. Have you the contracts with you?

A. Yes, sir.

Q. Here in court?

A. No, sir.

Q. Downstairs?

A. Yes, sir.

Q. You may go on and make your answer.

MR. DICKINSON: I renew the objection.

MR. LINDABURY: The contracts, I will state, will be produced and will be at the service of the other side. It is a mere matter of convenience, that is all.

THE WITNESS: Well, in connection with the contracts, perhaps I did not understand the question correctly. We have the original orders which were accepted. You understand, in making out an order, we make out an original, and, at the same time, that makes a carbon copy. We keep the original, of course, and the mills fill the order and send us their invoice. I have both the invoices and the original orders. That would probably constitute a contract, to meet all requirements.

MR. LINDABURY: Now, go on and give us the figures.

MR. DICKINSON: You are speaking now from the memorandum?

THE WITNESS: Yes, sir. June 28, 1905, an order was placed through the Bourne-Fuller Company, shipped from the Carnegie Steel Company, at 1.45½. On the same date an order was placed through the Bourne-Fuller Company with the Carbon Steel Company, at 1.44¾. On the 20th of June, 1905, an order was placed, through the Bourne-Fuller Company, with the Cambria at 1.51; and on the 7th day of July, 1905, an order was placed with the Otis Steel Company at 1.69¾.

By MR. LINDABURY:

Q. Have you also memoranda of purchases made in the following two years? I mean, purchases of plates, now, together with——

A. (Interposing) I have not anything in 1906, no, sir.

Q. You have not?

A. No, sir.

Q. Have you in 1907 and 1908?

A. I have in 1907 and 1908.

Q. Please give us the purchases for 1907 and 1908.

MR. DICKINSON: I ask if that is the same memorandum, made in the same way? If so, I will put in the same objections.

By MR. LINDABURY:

Q. Have you with you the contracts for all the purchases?

MR. DICKINSON: I will not put you to that. Just ask him if it is the same.

MR. LINDABURY: Let me do it in my own way.

MR. DICKINSON: All right; no objection at all.

By MR. LINDABURY:

Q. Have you with you the contracts for all the purchases shown on the memorandum you have before you?

A. Yes.

Q. And have you on that paper a memorandum of the purchases made in 1907 and 1908, of plates?

A. Yes.

Q. You may give them.

MR. DICKINSON: This is objected to on the same grounds as stated in the objection to the other memorandum.

By MR. LINDABURY:

Q. You personally examined these contracts, as I understand you?

A. Yes.

MR. LINDABURY: I will state again that this is merely for convenience, that the contracts are here and are at the disposal of counsel for the Government.

THE WITNESS: Shall I go ahead with 1907?

By MR. LINDABURY:

Q. Yes.

A. On plates: January 2, 1907, we placed an order with Lukens at \$1.69 $\frac{3}{4}$. On the same day with Carnegie at \$1.74 $\frac{3}{4}$. On the 26th day of February, 1907, we placed an order with Otis for \$1.64 $\frac{3}{4}$; on March 8, 1907, Otis, \$2.04 $\frac{3}{4}$.

That same price also applied to two orders placed with Otis on March 18th and the 16th of April. On March 18 we placed an order with Worth Brothers at \$1.64 $\frac{3}{4}$; on May 28, 1907, we placed an order with Otis for \$2.04 $\frac{3}{4}$, and on the same day we placed an order with Cambria for \$1.74 $\frac{3}{4}$. That same price, that last price, was also the price on orders with Cambria on the 6th day of June and the 8th day of June; and also on the 7th day of July, 1907.

On the 8th day of July, 1907, we placed an order with Otis at \$1.85. On the 20th of December, 1907, we placed an order with Cambria at \$1.75; on the 20th day of March, 1908, with Otis at \$1.75; on the 8th day of August, 1908, Otis, \$1.65, and then on the 27th of August and the 2nd of October, 1908, we placed two more orders with Otis at \$1.65.

On the 11th day of September we placed one with Lukens at \$1.65, and that is all.

Our purchases of plate during 1908 were very light, because the business broke during the latter part of 1907.

Q. What prices did you pay for bars, and from whom did you purchase them, and when, during 1907 and 1908? Give it in the same way.

A. Well, we purchased bars from Carnegie and the Lockhart Iron & Steel Company.

Q. No, give it the same as you did before.

A. All right. On December 31, 1906—that is the beginning of 1907, when the order was placed—Carnegie, \$1.54 $\frac{3}{4}$; January 2, 1907, Carnegie, \$1.64 $\frac{3}{4}$. April, 1907—I have forgotten the date on this—Lockhart Iron & Steel Company; there were four orders placed with the Lockhart Iron & Steel Company in April, 1907, two of them at \$1.90 and one at \$1.85, and one at \$1.95.

MR. DICKINSON: Is this a continuation of the same memorandum all along?

MR. LINDABURY: The same one.

THE WITNESS: (Continuing) June 20, 1907, Cambria, \$1.75; August 24, 1907, Cambria, \$1.75; October 1, 1907, Cambria, \$1.73; October 11, 1907, Bourne-Fuller Company, \$1.65; October 15, 1907, Cambria, \$1.76 $\frac{1}{2}$; October 24, 1907, Cambria, \$1.65; March 18, 1908, Cambria, \$1.66 $\frac{1}{2}$. That price also applies to orders of March 16 and April 22, 1908. August 29, 1908, Carnegie, \$1.45.

By MR. LINDABURY:

Q. Are those all the contracts you made during those periods?

A. No, sir.

Q. Upon what principle were those selected, and how came you to bring and collate those only?

A. Why, I instructed my purchasing agent to go through his accounts and prepare a list during the years 1907 and 1908 that showed variation in prices.

Q. Are those all that showed variation or were those the principal ones?

A. Those were the principal variations, to show where it was widest.

Q. There were other contracts?

A. Yes.

Q. Do they also show variations, to a lesser extent?

A. Yes; I cannot say what variation they showed, but I know there was generally some variation; I could not say to what extent.

Q. How came you to have this gotten out for these two years?

A. You mean as to why those two years were selected?

Q. Yes; were you requested to do it?

A. My idea of those two years, particularly 1907—I went into that as fully as I could because 1907 represented a period of great business activity at first, and of great depression at the last. I was not requested by anybody to do it. It was morally impossible for me to go through all of our records for the last ten years, so I got what I thought would be the best.

Q. You have spoken of the wide extent of the quotations that you obtained; have your purchases also been spread around among these concerns that you have named?

A. Yes.

Q. What percentage of your purchases have been made from the Carnegie Company?

A. Not more than 25 to 33⅓ per cent.

Q. How did it happen that the balance were made from others?

A. The only reason that can ever happen, and that is that we were buying strictly on a competitive basis, and we were buying where it was to our interest to buy. Sometimes it would be a matter of price—generally, of course—but there are other conditions that might enter into it; the question of delivery sometimes becomes very important, on a proposition of that kind.

Q. And have these purchases from the Carnegie Company been distributed through the years since 1905, or were they all bunched in one year?

A. Oh, they were distributed.

Q. As that company would be higher or lower than the others?

A. Yes; or as they should be able to make better deliveries sometimes.

Q. And have you purchased also from Jones & Laughlin?

A. Yes, sir.

Q. And from the Cambria Company?

A. Yes, sir.

Q. And from the Lackawanna Company?

A. Yes, sir.

Q. And from the others you named?

A. Yes, sir—the Bethlehem, the Eastern Steel Company, Worth Brothers, Lukens, Otis, the United Steel.

Q. How have you happened to give them your orders? For the same reason you mentioned?

A. Purely on a competitive basis, either on price or delivery.

(Whereupon an adjournment was taken until to-morrow, Thursday, December 4, 1913, at 10.30 o'clock a. m.)

ONE HUNDRED AND TWENTY-FOURTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Thursday, December 4, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE and MR. BOLLING.

H. H. HAMMOND,

the witness under examination at the taking of adjournment.
resumed the stand.

DIRECT EXAMINATION (Continued)

By MR. LINDABURY:

Q. In your purchases of plates and bars and other steel products that you purchased during the period which has elapsed since you became treasurer of the McMyler Company, have you observed any indication of a combination to fix or maintain prices between the different manufacturers of the steel products which you purchased?

MR. DICKINSON: This is objected to as incompetent because it calls for a conclusion and opinion of the witness upon a state of facts that may be in his own mind and not revealed to the court, and also his opinion on a mixed question of fact and law.

MR. LINDABURY: As you have made that objection a good many times, and will doubtless desire to make it to all such questions, I am wondering if we cannot by some stipulation make it cover similar questions, without being put on the record every time.

MR. DICKINSON: Yes. . Just add there: It is agreed by counsel for both parties that whenever questions similar to

the above are asked any witness for the defendants, it is understood that, without repeating it, it shall be regarded that the foregoing objection has been made to all such questions the same as if entered upon the record at the time the question is asked.

MR. LINDABURY: I agree to that; and further, if in the opinion of counsel it may at any time seem worth while, that the specific objection may be entered upon the record.

(The pending question was repeated by the stenographer.)

THE WITNESS: No.

By MR. LINDABURY:

Q. Has there or has there not been competition between the manufacturers from whom you have obtained quotations for your trade in the product which you have purchased, as you have stated?

A. Yes; there always has been competition.

Q. Has that competition been active?

A. Yes.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Hammond, your actual connection with the steel business began, I believe, in 1905?

A. Yes.

Q. Before that you were a lawyer?

A. Yes.

Q. You carried on your business of law, I suppose, in an office separate from that in which the company carried on its business?

A. Yes.

Q. What date in 1905 did you actually connect yourself with the steel business?

A. July 1st.

Q. Does what you have said in regard to your knowledge of prices and quotations and competition refer to the period from July 1st?

A. From July 1st on, yes; that was when my active connection with the business began.

Q. I want to know whether you have meant to testify as to any knowledge back of that. I want to limit the cross examination to that.

A. I think that would be right. I had some little knowledge before that, but not much. My actual connection began July 1st, 1905.

Q. And what you have said about prices and competition, and so forth, is from that period on?

A. Yes.

Q. Now, in the year 1905, what tonnage in steel products did that company buy?

A. I could not answer that.

Q. Could you approximate it?

A. No, sir, not properly. That is quite a ways back.

Q. Well, what were your duties in 1905, say the last half of the year?

A. The last half of the year treasurer of the company and then general office manager of the office end of the business.

Q. During that time who purchased for your company?

A. Mr. E. F. Hammond.

Q. What position did he hold at that time?

A. He was purchasing agent.

Q. He was purchasing agent?

A. Yes.

Q. Did he have full authority and control at that time?

A. Under our direction.

Q. Under whose direction?

A. Mine.

Q. You had been inexperienced, then, in the question of buying and purchasing?

A. No; I don't think so. I had some considerable experience before that.

Q. I understand that, but your business before that had been primarily that of a lawyer?

A. Well, in other lines also.

Q. In 1905 to what extent did you actively participate in placing the purchases, and how far did Mr. Hammond participate?

A. In 1905 I was made the manager of that part of our business, and I was responsible for it then.

Q. You were responsible for it?

A. I took up the charge of it at that day.

Q. You mean from that time on?

A. Yes.

Q. Wait a moment; you mean that from that time on the purchases were passed upon by you?

A. No, sir.

Q. What character of purchases were passed on by you?

A. Matters of importance, the larger matters and matters involving any larger sums of money, or matters that might have affected the policy of the company. Of course, small matters we allowed our purchasing department to order direct without consulting with the company.

Q. And in those matters he acted upon his own responsibility?

A. Yes.

Q. He was a man of character, in whom confidence was reposed, and was a man of experience?

A. He had not much experience at that time?

Q. How long had he been connected with the company in that manner?

A. About six months.

Q. That is to say, he began in the year 1905?

A. I do not think he had been purchasing quite that long, but he had been purchasing only about thirty days at the time I came in, come to think of it.

Q. Can you state, now, from memory, the proportion, in the last half of 1905, of purchases that were made by him, and the proportion of purchases that came under your direct supervision?

A. No, sir; I could not state that, but the purchases were made by him over his signature, but under our direction, where it was an important matter.

Q. But I understand you to say that there were classes of matters which you termed important that you directly took control or supervision of, and that there were other matters——

A. Not directly as to purchasing——

Q. I mean, the responsibility?

A. Yes, sir.

Q. And in that way they came under your personal observation?

A. Yes, sir.

Q. And there were others that did not?

A. Yes, sir.

Q. And you cannot now give any estimate of the percentage?

A. No, sir; I cannot do that now.

Q. How would that be for subsequent years?

A. I do not think I could do that for any year.

Q. Take the year 1905: do you know how many transactions in the way of purchases your company made of steel products in the last half of 1905?

A. No, sir.

Q. Could you approximate it from memory?

A. No, sir.

Q. Could you for any of the years down, say, to 1912, inclusive?

A. No, sir; I could not even do that for 1913.

Q. I suppose that you had quite a number of transactions each year?

A. Yes, sir; naturally.

Q. You gave, in your direct examination, certain prices which you paid under the contracts to which you specifically referred. I will ask you whether or not those prices were not for different sizes; in other words, were those prices not for different sizes?

A. Without examining them I should say they covered a great many different sizes.

Q. Were those prices for delivery at Cleveland or not?

A. Yes, sir.

Q. That is to say, the prices included freight?

A. They were bought on the Pittsburgh base, with freight allowed.

Q. Who paid the freight; you or the vendor?

A. Naturally we paid it.

Q. These prices that you have given in your direct examination——

A. Are delivered prices.

Q. They were delivered prices?

A. Yes.

Q. For different sizes?

A. For different sizes; but while I have not examined them as to that, of course the plate takes the same prices. There are certain limits where it takes extra prices; for instance, the smaller gauges. That I cannot give you from memory, but I have that all tabulated in my office, of course, for reference.

Q. We have not the time now to go back to that; but some of these you have quoted under these contracts were such as took extra prices, were they not?

A. No, sir; I think not. I think they are the standard line. I forget the dividing line, where they begin to take extra prices, but our effort in producing those bills was to produce invoices that did not take the extras.

Q. You do not know what that dividing line is?

A. No, sir; I do not recall just now.

Q. There is such a dividing line?

A. Yes, sir; the lighter gauges take a higher price; but we use very little of them.

Q. You do not know how many of these contracts may cover those gauges?

A. Very few, if any. We use very little of the lighter gauges. The amount of the lighter stuff we use is hardly enough to mention. Our stuff is all heavy.

Q. I understand you to say a great many of the contracts during 1905, 1907 and 1908—those are the years, I believe, from which these selections are made?

A. We had quite a good many during 1905 and 1907; not so many during 1908.

Q. You had a number, did you?

A. We had some.

Q. Do you know how many?

A. I do not.

Q. You did not go over and examine them?

A. No, sir.

Q. You did not go over and examine all those for 1907?

A. No, sir.

Q. Nor for 1905?

A. No, sir.

Q. Someone else did that?

A. Yes.

Q. Under general direction from you?

A. Yes.

Q. You do not know, now, what these other contracts, which were not selected, show?

A. No, sir.

Q. For sizes you have not checked these up, have you, so that you are able to say how many of them come within the dividing line that requires extras?

A. No, sir; I have not checked them up, but they speak for themselves.

Q. Have you any recollection now of any of the prices that were quoted you in 1905, other than those which are shown in these contracts?

A. Not in detail; no, sir.

Q. Could you give, upon any purchase, who quoted prices, and what the relation between the various quotations was?

A. No, sir; I could not do that, for this reason: we are right there in Cleveland, and whenever we have any work coming along, when we get our quotations, it is done either by telephone or usually by personal interview, and naturally I could not remember that stuff so that I could testify to it in detail.

Q. Were not a great many of your purchases made, so to speak, as your exigencies required, on short notice?

A. Some.

Q. Would you not make some of the purchases, then, by taking it up directly with one manufacturer?

A. Sometimes.

Q. Do you know for 1905, or any of these years, what proportion of the purchases were disposed of in that way?

A. No, sir; I do not.

Q. Going back to these purchases for which you gave the prices, under these selected contracts for the years 1905, 1907 and 1908: do you know whether any of those contracts were for prompt shipment?

A. I could not say about that.

Q. Or whether the prices were based to some extent upon prompt shipment?

A. I could not answer that question. There is nothing in the document that shows. My recollection does not go back that far.

Q. You could not make any statement now in regard to that?

A. No, sir.

Q. I suppose at times you did pay a higher price for prompt shipment, did you not?

A. Naturally that would arise sometimes; yes, sir.

Q. You cannot state how often that may have arisen?

A. No, sir. I recall one that I testified to yesterday, where we paid a very high price for some material to get prompt shipment, yes.

MR. COLTON: Was that \$2.04?

THE WITNESS: No; that Lockhart Iron & Steel Company matter; that was a case of prompt shipment, but that was not the \$2.04. The \$2.04 matter was the Otis price.

By MR. DICKINSON:

Q. What year was that?

A. I do not recall. I think it was in 1907.

MR. LINDABURY: Shall I tell you, Judge?

MR. DICKINSON: No; never mind.

MR. LINDABURY: You only want his recollection?

MR. DICKINSON: Yes.

THE WITNESS: I think it was 1907.

By MR. DICKINSON:

Q. You do not know how many others there were of that character?

A. No, sir; I do not.

Q. On the Otis shipment of which you speak, what was the time within which delivery was to be made? Do you recall?

A. I do not.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Did you ever pay either Carnegie or Cambria a premium for prompt shipment?

A. No, sir.

Q. Did you ever negotiate, after receiving quotations, with any of these concerns for a price better than the quoted price?

A. Yes, sir.

Q. Was that on your larger or smaller orders, ordinarily?

A. Naturally on the larger orders.

Q. And were you able, in that way, sometimes to get a better price than some one or more of those who quoted?

A. I do not recall that we ever got a better price from Carnegie. We have generally been able to get a better price somewhere along the line, from some of the independents, as they are called.

MR. LINDABURY: That is all.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. In the year 1905 what proportion of your purchases were from the Carnegie?

A. A very, very small amount, Judge. In 1905, as I testified yesterday, we were not fabricating structural steel; we were only using it where it was used in connection with or as part of our machines that we were building, and while we

bought a very little from them, yet generally we placed our orders at that time through Bourne-Fuller & Company for mill delivery with the various mills.

Q. You do not know what tonnage your purchases of steel products was in 1905?

A. No, sir.

Q. In 1906 do you know what your total tonnage was?

A. No, sir.

Q. Do you know what your total tonnage was in any of the various varieties of steel products that you bought?

A. No, but I know what it was since 1910.

Q. Do you know what percentage you gave Carnegie in any year, excluding 1905, between 1905 and 1910, and also excluding 1910?

A. No, sir; except that in a general way it was very small—very little.

Q. Do you carry in your mind any data at all which enables you to state approximately the percentage of steel products that you purchased from any of the persons from whom you did purchase during that period?

A. Not during that time; no, sir; you mean back of 1910?

Q. I mean 1906, 1907, 1908 and 1909?

A. No, I could not do that intelligently.

Q. You could not say intelligently what percentage you may have gotten from either during that time?

A. No, sir.

Q. Could you as to 1910?

A. From 1910 to the present time, inclusive, we have given the Carnegie Steel Company between 25 and 33 1-3 per cent. of our entire tonnage.

Q. Take the year 1913; have you bought anything from the Carnegie?

A. Yes, sir.

Q. What tonnage?

A. Oh, I should say about three thousand tons.

Q. Have you bought anything from any other of the subsidiaries of the Steel Corporation in 1913?

A. Very little, except direct from Carnegie.

Q. How?

A. Very little; there might be little odds and ends, but not much.

Q. What has been the entire tonnage bought by you in 1913?

A. About ten or eleven thousand tons.

Q. From whom did you buy that other than what you got from the Carnegie?

A. From Lackawanna, Bethlehem, Jones & Laughlin, Cambria, Otis, United Steel, Eastern Steel.

Q. Now, you have named seven, other than the Carnegie?

A. Yes, sir. Did I name the Lackawanna? Have I got that?

Q. Yes.

A. That is all I think about now, except some little odds and ends.

Q. Did you buy from any one of these others that you have named as much as 3,000 tons in 1913?

A. Yes.

Q. Which one?

A. I think we bought more than that from Lackawanna.

Q. More than 3,000 tons?

A. Well, I have not figured that up, but that would be my judgment.

Q. What have you bought from Bethlehem?

A. Probably in 1913 not more than 500 ton. We never——

Q. (Interposing) Jones & Laughlin?

A. Well, the balance would probably be equally divided between Jones & Laughlin and Cambria, and the other mills.

Q. That is to say, 3,000 to the Carnegie and 500 to the Bethlehem, and something over 3,000 to the Lackawanna, and the balance divided about equally?

A. I should say so; yes, sir.

Q. Did you buy at any time anything from the Bourne-Fuller Company where the delivery was direct from Carnegie to you?

A. Yes, sir; that was in 1905 only. That was in connection with those matters we testified to yesterday concerning the year 1905.

Q. You bought them direct from Bourne-Fuller, then?

A. We bought them from Bourne-Fuller for mill delivery.

Q. And from their quotations?

A. Yes, sir; but, of course, we knew what the other quotations were.

Q. You did not know when they contracted with the Carnegie for them?

A. No, sir.

Q. Nor what price they paid the Carnegie for them?

A. No, sir; naturally not.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

MR. SEVERANCE: Mr. Cutler.

FERDINAND E. CUTLER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Cutler, where do you live?

A. Waterloo, Iowa.

Q. How large a place is Waterloo?

A. About 33,000.

Q. That is located in the northern part of the state, is it not?

A. Yes, sir; north——

MR. DICKINSON: (Interposing) Northeast, rather, is it not?

MR. SEVERANCE: Well, I would say about the northern.

THE WITNESS: It is a little northeast of the center. It is called the northern part. It is 100 miles west of the Mississippi.

By MR. SEVERANCE:

Q. What is your business, Mr. Cutler?

... A. Wholesale hardware.

Q. How long have you been in the hardware business?

A. About 47 years.

Q. How long have you been wholesaling hardware?

A. I have been wholesaling exclusively thirteen years. We began when we were in the retail business, wholesaling a little before we disposed of our retail business. We began about eighteen years ago to wholesale a little in connection with the retail.

Q. Are you and have you for the last ten or twelve years been a customer of any of the subsidiaries of the United States Steel Corporation?

A. Yes; we have been dealing with the American Steel & Wire Company; United States Sheet & Tin Plate——

Q. (Interposing.) American Sheet & Tin Plate?

A. Yes; American Sheet & Tin Plate.

Q. You have bought from those two companies?

A. Yes, sir.

Q. What has been your practice in buying from the American Sheet & Tin Plate Company? What character of commodities have you bought from them?

A. Sheet iron, black and galvanized, and planished iron.

MR. COLTON: Excuse me, Mr. Severance. Would you ask him whether that is steel or not?

MR. SEVERANCE: What?

MR. COLTON: Would you ask him whether that sheet iron is not steel?

By MR. SEVERANCE:

Q. You mean sheet steel, do you not?

A. Yes; part of it is sheet steel, but Woods Refined is iron instead of steel.

Q. Wood's Refined is a brand?

A. Yes, sir; supposed to be of extra quality.

Q. Made by the Sheet & Tin Plate Company?

A. Yes.

Q. That is an old product, is it not?

A. Yes.

Q. That is not steel, but iron?

A. That is iron.

Q. What other brand of sheet steel have you been in the habit of buying from the American Sheet & Tin Plate Company?

A. We buy the black sheet steel; there is no special brand on that. Then we buy the planished iron; that is an imitation Russia, and takes the place of the genuine Russia; and then galvanized sheets.

Q. What kind of sheet is what is called the Apollo brand?

A. The Apollo is galvanized.

Q. Is that a sheet that has some reputation in the market?

A. Yes; we think it has the best reputation of any galvanized iron.

Q. In what territory do you market your goods?

A. Principally in Iowa; two-thirds of the northern part of the State, and a few tons in southern Minnesota.

Q. In general, about what is your annual turnover in your store? What are your annual sales?

MR. DICKINSON: Excuse me a moment; are you speaking of everything or only steel products?

MR. SEVERANCE: No; he does a general wholesale hardware business.

THE WITNESS: What was the last question?

By MR. SEVERANCE:

Q. About how much is your annual turnover in your store; about how much business do you do?

A. About \$700,000.

Q. That is in all lines, hardware and everything?

A. Yes.

Q. Do you purchase, or has it been your practice to purchase a portion of your requirements in sheet steel of other companies than the American Sheet & Tin Plate Company?

A. Yes.

Q. What other companies do you deal with; what other makers?

A. Well, we bought of the Berger Manufacturing Company and bought of Merchant & Evans.

Q. They are Philadelphia people, are they not?

A. Philadelphia; and the St. Louis Stamping Company.

Q. Do you buy anything of the Inland Steel Company?

A. From the Inland we buy black sheets; I cannot recall any others just now.

Q. Do you buy anything from the American Rolling Mill at Middletown?

A. From the American Rolling Mill we buy some.

Q. They are at Middletown, Ohio?

A. Yes; that was galvanized.

Q. Have they any peculiar kind of product that they are pushing in the market in the line of sheets?

A. They have, but we have not bought any of that.

Q. Only the galvanized sheets?

A. Only galvanized sheets of them.

Q. In making your purchases of sheets, do you secure quotations?

A. Yes.

Q. And have you or have you not placed your orders on a competitive basis?

A. Yes; considering quality.

Q. What has been the fact as to whether quotations that you have received from different manufacturers have been uniform or varying?

A. Varying.

Q. You say you have placed your orders on a competitive basis, quality considered. What do you mean by that?

A. Well, there are some mills that do not make as good a quality; it is harder and does not work freely, and we try to avoid that, we try to buy a good quality always.

Q. Are these sheets that are sold by certain mills that you just mentioned, which you do not consider as of as good quality, sold in competition with the sheets that you handle?

A. Yes.

Q. Have you handled any tin plate?

A. Yes.

Q. Have you handled large quantities, or small quantities?

A. Not very large quantities.

Q. Where have you bought that tin plate?

A. We buy of N. & G. Taylor Company, Philadelphia; the

American Sheet & Tin Plate Company; the McClure Company, and bought a little also from the Berger Manufacturing Company, and Merchant & Evans.

Q. Have you bought anything from Carnahan?

A. Yes; we have not dealt with them a great deal.

Q. Do you place your orders for tin plate on competitive bids?

A. Yes.

Q. Have you secured quotations in buying tin plate?

A. Yes; always.

Q. And have those quotations from different makers been uniform or varying?

A. Varying. I do not know that they have ever been uniform, ever been the same.

Q. Is there a brand of tin plate made by the N. & G. Taylor Company that has some particular standing in the market?

A. Yes; Taylor's "Old Style," they used to call it. They changed the name recently. A good many factories would brand their tin "Old Style," and they changed to the "Target and Arrow" brand, but the same quality that they made for years; about a century, I guess. That is considered the highest grade plate in the market made by any one.

Q. Do you handle considerable of that?

A. Yes; for the amount of business we do.

Q. How does the price that N. & G. Taylor make for their product ordinarily compare with the price for a similar character of tin plate sold by the American Sheet & Tin Plate Company?

A. Well, that is about the same as the American; it is usually a little higher than the grade the American considers the same.

Q. I judge from what you say that you regard the Taylor tin plate as of a little higher grade?

A. A little higher grade, and it has a reputation also that helps to sell it.

Q. That has been made for a good many years?

A. Yes.

Q. Do you buy wasters?

A. Not very much; small quantities.

Q. What other tin plate and sheet mills are there that quote you prices and solicit your business, if any, outside of the ones you buy of? That is, if you remember any others?

A. There is Scott & Company; that is tin plate.

Q. You are speaking of tin plate. Give the tin plate and then answer as to sheets.

A. Scott & Company; that is tin plate. I do not recall the others now on tin plate.

Q. On sheets?

A. There is the Youngstown Sheet & Tube Company; and—I can not think of the mill now—they make a special brand; they make the “Ingot sheets.”

Q. Is it called the “Ingot sheet”?

A. Yes.

Q. You do not remember the name of the mill?

A. I can not recall it just now.

Q. It is not the Stark Company? Do they make “ingot sheets”?

A. No; they make the regular goods. Yes, they solicit our business quite often.

Q. How is this solicitation of business carried on? Is it by correspondence or by personal visits by traveling men?

A. Both. Nearly all of them have representatives. They call on us frequently, and then they solicit also by mail and occasionally by 'phone.

Q. Has the competition in the classes of products that we have been discussing, sheets and tin plate, been continuous or intermittent?

A. Yes. There are times when it is not as strong, but there is always competition; they are always soliciting business.

Q. You spoke of buying from the American Steel & Wire Company also. What class of products have you bought from the American Steel & Wire Company?

A. Nails, smooth wire, barbed wire, staples, poultry netting staples, wire clothes line, brads and tacks, finishing nails, and a few other items in small amounts.

Q. Take these up separately; take the matter of nails, which was the first one you mentioned; have you bought nails also from other mills or dealers than the American Steel & Wire Company?

A. Yes, sir.

Q. From whom?

A. We have bought from the Grand Crossing Tack Company, the Northwestern Barbed Wire Company, the Pittsburgh Steel Company, the Cambria Steel Company.

Q. Any more?

A. I do not think of any others just now.

Q. What is your experience in buying nails; do you buy them on a competitive basis?

A. Always.

Q. Do you receive quotations from different mills?

A. Yes, sir.

Q. Are those quotations uniform or varying?

A. They vary. They are very seldom the same.

Q. In times of great demand and great activity what is your experience, if you have had any, in receiving quotations from the American Steel & Wire Company and these other mills, as to which would ordinarily be higher? Would the Steel & Wire Company be higher, or would the outside mills be higher in times of great demand?

A. The outside mills are usually higher. That is, they are not cutting their prices in such times.

Q. In times of a demoralized market, when there is little demand, and great pressure to sell, which are ordinarily the higher, the American Steel & Wire Company or the other mills?

A. The American is almost always higher in such times. The outsiders, or the independents, as they are called, are cutting the prices then, or offering inducements occasionally in other ways—times of shipment, making longer contracts, and so forth.

Q. Taking it at all times—good times, bad times, normal times—what is the fact as to whether the competition has been continuous in wire products?

A. Yes, sir; there is always competition in the wire products.

Q. You said that you handle some woven wire fence. Is that a large or small branch of your business?

A. That is a small branch.

Q. What fence do you handle?

A. We handle the Banner fence.

Q. Who makes that?

A. That is made by the American Steel & Wire Company; then the Griswold fence, made by the Griswold Manufacturing Company; and we have had the Kokomo fence.

Q. Did you ever handle the fence of the Northwestern Barbed Wire Company?

A. Yes, sir; the Northwestern.

Q. How are the prices quoted by the different manufacturers—uniform or varying?

A. They vary. There is a little difference in the style of fence that they all make, and they cannot compare prices on the fence as easily as they can on nails.

Q. Has the use of woven wire fence, as against barbed wire fence, increased or diminished in the last few years?

A. It has increased, and is increasing quite fast.

Q. Displacing the barbed wire?

A. Yes, sir.

Q. Are there other woven wire fence manufacturers selling their product in your territory?

A. Yes, sir.

Q. Can you name some of them?

A. I think all of those manufacturers that I named are selling in our territory; then the jobbers sell other makes, nearly all kinds. The jobbers or wholesalers are selling so that all kinds are sold in our territory.

Q. A good many different kinds?

A. Yes, sir.

Q. Is that a pretty active business now?

A. Yes, it is.

Q. Have you handled any coppered wire?

A. Yes, sir.

Q. From whom have you bought coppered wire?

A. We bought of the American Steel & Wire Company, the Cleveland Mill—I cannot tell the name now—and the Kokomo Steel & Wire Company, and Merchant & Evans.

Q. Do you make those purchases like the others, on a competitive basis?

A. Yes, sir.

Q. And are the prices quoted you uniform or varying?

A. They vary.

Q. Take the matter of tacks—you mentioned tacks: from whom have you bought your tacks?

A. Of the Grand Crossing Tack Company, the Atlas Tack Works, the Cleveland Tack Company, the American Steel & Wire Company, and a few of the Rockford Tack Company.

Q. Do you buy the larger or smaller percentage of tacks from the American Steel & Wire Company?

A. The smaller percentage. Their price is not good, usually, on tacks.

Q. You mean it is too good, do you not?

A. It is too good for them.

Q. They do not quote as low a price as the other people?

A. They do not quote as low prices; no, sir.

Q. You spoke of poultry netting: From whom have you bought that? I am asking this question generally, over the last series of years.

MR. DICKINSON: Over what series of years are you asking?

MR. SEVERANCE: The last ten or twelve years. All of my questions have been directed to that.

By MR. SEVERANCE:

Q. You understood all of my questions applied to that, did you not, Mr. Cutler?

A. Yes.

Q. I stated that in the first place.

A. The Gilbert & Bennett Manufacturing Company and the American Steel & Wire Company, principally. Also Dillon & Griswold; it is now the Griswold Manufacturing Company. That is about all.

Q. Is that poultry netting bought on a competitive basis?

A. Yes.

Q. Do you get varying or uniform quotations on that?

A. That varies.

Q. You spoke of poultry netting staples. From whom do you buy them?

A. We buy a few of the American Steel & Wire Company, but principally of the Grand Crossing Tack Company, or the Cleveland Company, or William E. Pratt & Company. That is another article that the American Steel & Wire Company's price is not as good on as we can get of others, so we do not buy a great many of them.

Q. You spoke of clothes lines; from whom have you bought your clothes lines?

A. Of the American and Roebling's and the Wright Wire Works.

Q. Have you made those purchases on a competitive basis?

A. Yes, sir.

Q. Have your quotations on that product been uniform or varying?

A. They have varied, and we have not bought every year of the American. There is no particular difference in quality on that product, and we buy where we get the lowest price.

Q. Do you sell anything that is made by the Illinois Steel Company?

A. We sell steel rods or bars. The last few years we have been selling them for silos.

Q. Where do you get your supply of silo rods and bars?

A. Well, we have not bought them all of one mill, the prices have varied so. Those we buy the same as the other goods, and buy of the lowest man, and we ask for quotations on those the same as we do on other goods, when we are ready to place a contract.

Q. You say there is a good deal of variation in the quotations?

A. Yes, sir; there is.

Q. Do you remember the names of other mills, aside from the Illinois, that quote you on those?

A. There is the Illinois Steel Company, Theodore Geissmann Company, Jones & Laughlin, Mathew Lanz Sons Company.

Q. Where are they located?

A. Pittsburgh. The Pittsburgh Forge & Iron Company; Republic Iron & Steel Company; Interstate Iron & Steel Company.

Q. Have you bought from some of those people?

A. Yes.

Q. Do you remember whom?

A. We have bought of Lanz. I do not recollect who the others are. We take the lowest prices, and on that article we sent out more inquiries. We found there was a difference in their prices, and sent more inquiries than we generally do on the other items.

Q. This is a rather newer product with you too, is it not?

A. Yes, sir; we have only handled it a few years.

Q. The consumption of this particular style of rod is increasing a good deal, is it not, out there in the west?

A. Yes, sir.

Q. More silos are being built?

A. Yes, sir.

MR. SEVERANCE: You may examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Cutler, you say that your annual turnover is about \$700,000?

A. Yes, sir.

Q. At the present time?

A. It will run a little over that this year, but we sell enameled ware and tools, cutlery and sporting goods; goods that do not run into money as fast as the heavier products.

Q. You sell a great variety of products, do you not, in a general hardware business, in a place like Waterloo?

A. Yes, sir. We do not retail. We do not keep as large a variety as we did when we ran the retail store.

Q. Still, you supply the retail stores largely, do you not?

A. Yes, sir.

Q. You do not sell direct to the consumer, do you?

A. No, sir.

Q. Then you keep a general class of goods that the retailers in that section of the country want, do you?

A. Yes, sir.

Q. And that is quite a variety, is it not?

A. Well, there are a great many articles that we do not keep that the ordinary retailer does keep.

Q. But then there are a great many that you do keep?

A. Yes, sir.

Q. Do you know, taking the year 1912, what proportion of your turnover that year was in the class of products that you have been testifying about to-day?

A. No, sir; I do not.

Q. Could you give any approximation of that?

A. It would be a guess if I should, and I might make a wild guess. We do not keep a record to know what quantity we sell in the different lines.

Q. There is a very large part of your business that is in things other than the things you have been talking about to-day, is there not?

A. Not a large part in dollars and cents or in tonnage.

Q. You mean in tonnage?

A. No, not in tonnage.

MR. SEVERANCE: He says not a large part in dollars and cents or in tonnage.

MR. DICKINSON: Read the answer.

(The answer was read by the stenographer.)

By MR. DICKINSON:

Q. You mean to say that out of all the things that you sell, other than the particular commodities that you have been testifying about, that the money value of this turnover is not large?

A. Just pardon me. What was that question that I answered last?

(The question was read by the stenographer.)

THE WITNESS: Yes, sir.

By MR. DICKINSON :

Q. Do you handle cutlery?

A. Yes, sir.

Q. Cutlery is very expensive, is it not, as compared with poultry netting?

A. Yes, sir; but we do not handle a large quantity of that.

Q. What stock do you carry in cutlery, about?

A. Oh, I cannot tell you. That we do not keep separate.

Q. Do you handle hardware for house building?

A. Yes, sir.

Q. Locks, hinges, butts?

A. Yes, sir.

Q. Everything of that character?

A. Not everything, but we handle a good line for the territory we work.

Q. For building such houses as are built?

A. Yes, sir.

Q. In that territory?

A. Yes, sir.

Q. Is not the money value of that, as compared with these plainer articles, very high, as compared with the tonnage?

A. No, it is not as high, naturally, as those heavy goods.

Q. You mean that a ton of locks, compared with a ton of poultry netting, that the price of the ton of locks would not be higher than the price of the ton of poultry netting?

A. I did not say that.

Q. That is what I am asking you.

A. A ton of locks would cost us more than a ton of nails.

Q. Then when you sold a ton of locks you would get more for them than you would for a ton of nails?

A. I hope so; yes, sir.

Q. And so with poultry netting?

A. Yes, sir.

Q. And with any of these other things that you have described, would it not?

A. Not all of them, but the most of them.

Q. Now, what of these things that you have been talking

about could you sell a ton of at the same price as you sell a ton of locks?

A. I thought you meant the other items outside of those heavy goods when you asked the question.

Q. Oh, no; I am comparing it with these heavy goods.

A. There is not anything in these heavy goods, unless it would be planished iron. That would come nearer; or the Wood's Refined would come nearer the price of a ton of locks.

Q. Your locks vary in quality, do they not?

A. Yes, sir.

Q. You carry some fine locks, do you not?

A. Yes, sir.

Q. Can you give the proportion or any approximation of the proportion of this \$700,000 turnover that is represented by the class of products that you have been testifying about here as to buying, and upon which you get quotations?

A. No, sir; it would be a guess, and I never have figured that to know what the proportion is.

Q. And you could not do it for any one of those ten or twelve years that you have been talking about?

A. No; we have grown into the wholesale business from retail, and we have not added a lot of office expenses, or very much system, and we have not separated our stock into different departments, as we intend to do next year.

Q. Twelve years ago were you in the wholesale business?

A. Yes.

Q. What was your turn over twelve years ago?

A. I haven't the exact figures; I do not know that I could make a safe guess on that.

Q. Could you make a safe guess for any year prior, say, to 1910?

A. I should say 12 years ago it was \$250,000, but that is a guess.

Q. That is a guess?

A. Yes; and it has been increasing every year since.

Q. At a pretty constant ratio or not, or has it been fluctuating?

A. It has not made the same increase every year.

Q. Well, twelve years ago, when your turn over was approximately \$250,000, what proportion of that was represented by the class of steel and wire products that you have been testifying to to-day?

A. There was not quite as large a proportion in those heavy goods as there has been the last two years.

Q. Twelve years ago, can you give any idea of the extent of your purchases in sheet steel?

A. No, sir.

Q. Well, in poultry netting?

A. We sold probably half as much as we are selling now in poultry netting.

Q. Take the year 1912; what tonnage did you sell of poultry netting?

A. I cannot tell.

Q. So that you cannot tell, then, approximately what you were selling twelve years ago?

A. No, sir.

Q. Can you approximate what you were selling twelve years ago of any of these articles about which you have been testifying?

A. No, sir.

Q. Well, twelve years ago do you know now from whom you bought poultry netting? Can you recall and distinctly remember?

A. We bought of the Gilbert & Bennett Manufacturing Company; I do not recall who else we bought of.

Q. Well, 11 years ago from whom did you buy poultry netting?

A. We bought from Gilbert & Bennett every year.

Q. Can you remember any other person that you bought of?

A. Eleven years ago?

Q. Yes.

A. No, sir; we began buying of the American Steel & Wire Company about ten years ago.

Q. Do you know what year you began buying from them?

A. No, sir; I do not know.

Q. Do you know that it was as long as ten years ago?

A. I am not certain.

Q. Do you know that it was as long as nine years ago?

A. I am not certain when we began.

Q. You cannot say whether it was eight or nine or ten years ago?

A. It was eight to ten years ago, I should say.

Q. Take the year 1913; what various commodities have you bought and what tonnage of each, from the subsidiaries of the United States Steel Corporation?

A. I could not tell you; I have not the figures for that.

Q. Have you bought anything from the subsidiaries of the United States Steel Corporation in 1913?

A. We bought sheet iron, tin plate, wire nails, staples, barbed wire, and these several grades of black iron that I referred to before, "Wood's Refined" "Patent Planished" and "Apollo" galvanized sheets.

Q. Do you remember the tonnages that you bought, approximately?

A. No, sir; I do not.

Q. Have you got written contracts for 1913?

A. We have written contracts all the time on those goods.

Q. Have you any for 1913?

A. Yes.

Q. With what subsidiaries of the United States Steel Corporation?

A. The American Sheet & Tin Plate Company, American Steel & Wire Company. I do not know what other companies, whether any of those I have given here are subsidiaries of the United States Steel Corporation or not.

Q. What written contracts have you with companies for 1913, other than the American Sheet & Tin Plate Company and the American Steel & Wire Company?

A. Just on those commodities?

Q. For any of the commodities you have been testifying about. I want to know what concerns you have written contracts with for 1913?

A. The American Sheet & Tin Plate Company.

Q. You mentioned that?

A. I mentioned that and the American Steel & Wire Company?

Q. Yes.

A. The Grand Crossing Tack Company, the Wright Wire Goods Company, the Cleveland Tack Company; and we have a contract on galvanized sheets, but I cannot recall the company; it is the name I think you mentioned, the Stark. I think we have a contract now with the Stark Rolling Mill Company.

Q. Do you know that you have?

A. We have one, unless it is all taken out. We had a shipment from them a couple of weeks ago, and I do not know whether that closed up the contract or not.

Q. You did have one for 1913?

A. Yes; and it may be running yet.

Q. Is that all you can name?

A. We have a contract with William E. Pratt & Company, Gilbert & Bennett Manufacturing Company, American Wire Fabrics Company, and the Wright Wire Works.

Q. You mentioned the Wright Wire Goods Company.

A. Did I? We have contracts with a large number of concerns, but it is on smaller goods, lighter goods. And we have a contract with N. & G. Taylor & Company on tin plate.

Q. What proportion of your tin plate for 1913 that you contracted for up to this time is covered by your contract with Taylor?

A. I should say about half.

Q. How many boxes?

A. I don't know. I do not make the contracts now. I have three men that have been with me from eighteen to twenty-six years, and they simply talk to me in a general way about these things, and whom we had better buy from, and there are a great many details that I do not now know that I used to keep track of.

Q. How long has that been the case?

A. Oh, they have been growing into it a good many years.

Q. When did they begin to grow into it?

A. Twenty-six years ago, when they began working.

Q. How long has your contact with this matter been in a

general way, such as you have indicated in your statement?

A. Oh, it has not been very long. I am dropping out of it more every year—turning it over to them.

Q. When did you begin dropping out of it?

A. I began ten years ago.

Q. You began dropping out of it ten years ago?

A. You might say—I was not dropping out of it then, but I was having them take certain parts of the work, that I had attended to before that time; but I was familiar at that time with all the contracts and made the contracts, and have been making them up to this time, more or less; but, as I say, I am gradually turning it over to the other men.

Q. These men have been with you a long time, you say?

A. Yes, sir.

Q. Are they men of experience in purchasing?

A. They have had, as I say, eighteen to twenty-six years' experience in hardware.

Q. How many of them are there?

A. Three of these men, buyers, that I speak of.

Q. They are men in whom you have confidence?

A. Certainly.

Q. Do they sometimes buy on their own judgment?

A. Some of the smaller articles—tinware and tools, cutlery; but where there is any amount, they confer with me about it.

Q. What do you call "any amount"?

A. Well, if it was a carload of milk cans, they would probably speak to me about it.

Q. Do you buy milk cans from any of these people you have been talking about to-day?

A. No, sir; I did not mention any of those. We have contracts for outside goods, outside of those staple goods I have mentioned; we have a great many contracts. I have not mentioned one-tenth of them, I presume.

Q. But the subsidiaries of the United States Steel Corporation do not make milk cans, do they?

A. I think not.

Q. Let us leave out milk cans, then, and come back to what we have been talking about: have these purchasing

agents at any time made purchases of the various kinds of commodities that you have been testifying about to-day?

MR. SEVERANCE: I think you inadvertently made that question too general, Judge. You have asked him about all kinds of things, and he has been testifying about all kinds of things.

MR. DICKINSON: I want to make it plain, and I will reform the question.

By MR. DICKINSON:

Q. Have these purchasing agents at any time made purchases of sheet steel or nails or planished iron, or wire fencing or staples or plate or tin plate?

A. I think not. You say "staples"; the fence staples are included with wire and nail contracts, usually, but poultry netting staples they have bought. That does not run into quantity.

Q. Mr. Cutler, have you not frequently, in the last ten years, made from time to time purchases of these various articles where the amount would be inconsiderable?

A. Yes, sir.

Q. And do you mean to say that none of these agents, whom you say you have had in your business for twenty-six years, have made purchases of any of these articles without the matter being submitted to you?

A. "Inconsiderable" would be a little indefinite. It might apply in our business, and would not apply to Hibbard & Spencer, or to the George Worthington Company, or some of the larger houses.

Q. I am asking you whether or not at any time in the last twelve years any of these purchasing agents have ever bought without, before completing the purchase, bringing it to your attention, any articles I have just specified.

A. Very few, in those heavy goods. While I was South last winter they might have bought a little, but we made nearly all of our contracts before I went away, in heavy goods—wire, nails, tin plate, sheet iron, galvanized iron, black iron; all of these heavy goods were contracted for ahead.

Q. Do you buy all of these things always by contract?

A. Yes, sir. I say—

Q. And never buy them by orders?

MR. SEVERANCE: One moment, Judge. The witness had not finished.

THE WITNESS: I was going to say practically always. There may be a time when we want a few sheets of a different size, something that we do not keep in stock, and we may not have a contract with the mill that we think will furnish them quicker than the mill we are contracting with; and they might order those without a contract, or order them without saying anything to me about it.

By MR. DICKINSON:

Q. Do you know what proportion of your purchases in twelve years, in these various items I have specified, have been covered by contracts, and what proportion have not?

A. Nearly all of it has been covered by contract, as to these heavy goods.

Q. That is to say, that for each of the twelve years you have anticipated your wants, and have covered your prospective needs for that year by contracts?

A. Yes, sir.

Q. In all these articles?

A. Practically all of them.

Q. What contracts did you have eleven years ago—that would be 1902—for tin plate?

A. That would be guesswork if I should state that. I cannot tell positively who we contracted with eleven years ago.

Q. Can you tell ten years ago?

A. No, sir; I cannot tell positively as to any of those years.

Q. Do you know what quotations were made to you by any competitors in tin plate ten years ago or eleven years ago or twelve years ago?

A. We have a record of it in our office.

Q. But I want to know what the record of it is in your mind.

A. I have not any record of it in my mind.

Q. You have no record of it in your mind?

A. No, sir; not as to any price. I have a comparative impression as to the facts in my mind—the comparative prices.

Q. I want to see just what facts you have got in your mind. Can you state, for any one of those years, who the bidders are that you carry in your mind, and what the bids were, and let us see now, what the comparison was on any of these commodities?

MR. SEVERANCE: If you remember.

MR. DICKINSON: Now, read the question.

(The question was read by the stenographer.)

By MR. DICKINSON:

Q. On any of these commodities?

A. I do not know that I am prepared to give any positive figures.

Q. Have you any figures in your mind that you can say that you remember?

A. I remember nails.

Q. Take ten years ago——

A. (Interposing) Ten years ago?

Q. In 1902 do you know what you paid for nails?

A. No, sir.

Q. Do you know what you paid for nails in 1903?

A. No; I could not state positively.

Q. Do you know whether the prices of nails were higher or lower in 1903 than they were in 1902?

A. 1902 and 1903?

Q. Yes.

A. No, sir; I cannot state positively. I have not any of those prices in my head that I would be willing to swear to.

Q. Do you not know, Mr. Cutler, that for long periods of time, certainly down as far as 1906 or 1907, the prices of nails from manufacturers were generally quoted at a constant figure?

A. No, sir; I do not know that.

Q. You do not know——

A. (Interposing) You mean a uniform figure, or——

Q. (Interposing) Oh, I do not mean throughout that time, and I do not mean that every one quoted the same price.

MR. SEVERANCE: Then I do not see that your question means anything.

MR. DICKINSON: I will make it so he will see it, anyway.

By MR. DICKINSON:

Q. I will ask you this way: Do you not know that in 1902 over periods of time as much as weeks at a time, or months at a time, that the general price quoted by manufacturers on nails was the same?

A. No, sir; I do not.

Q. Do you know that for any of those years?

A. My opinion is that they never have been the same any length of time.

Q. You are going now, are you, on the prices quoted to you?

A. Yes, sir; what were quoted to us by the manufacturers.

Q. And you cannot give any of the prices for any of those years?

A. Why, prices have run from \$1.45 to \$3.20, but as to my stating the week or the month that \$3.20 was quoted, or that \$1.70 was quoted, I cannot state it positively.

Q. Can you give any time in the last twelve years where you made a purchase of nails, and state from whom you got quotations, and what they were?

A. Why, the recent prices I can state; \$1.50.

Q. \$1.50?

A. Yes.

Q. From whom?

A. The American Steel & Wire Company; Grand Crossing Tack Company.

Q. Who else?

A. I do not know that we have any contracts with others now. We have not been buying recently very heavy.

Q. What time is that you are speaking of?

A. We have contracts at present.

Q. And both of them are at the same price?

A. Yes; both at the same price. There is a little difference, however, between them.

Q. Well, state it.

A. The price does not always say that they are the same. They sometimes make differences, as I stated before, in the time when we must specify for our contract, and require that shipments must be made in a certain time after the specifications are sent in. Now, with these two houses it differs to-day, the contracts that we have, and that has almost always been the case.

Q. But the prices have been the same?

A. The prices to-day are the same, but we consider that just the same as a price. Money is worth something, and if we can contract to-day with one house at \$1.50 and must specify in sixty days, and can contract with another at the same price and specify in four months, and then delay shipments after that longer than the first company, that is the same as price to us.

Q. You said the price to-day is \$1.50. What do you mean by the price to-day?

A. \$1.50 a hundred f. o. b. Pittsburgh.

Q. Last year with whom did you contract for nails?

A. The American Steel & Wire.

Q. Who else?

A. Grand Crossing.

Q. Who else?

A. Youngstown; Cambria.

Q. Were these contracts at the same time or different times?

A. Some of them the same day.

Q. Which ones were the same date?

A. I cannot tell you.

Q. What proportion of your nails did you get last year from the American Steel & Wire?

A. You mean 1912?

Q. Yes.

A. I do not think we got over 50 per cent. from the American Steel & Wire.

Q. This year how much did you get from them?

A. We got probably 75 per cent.

Q. Well, in 1911, what percentage did you get from them?

A. This is guessing; we have it at home, but I should think in 1911 we got perhaps, I do not think it ran over 50 per cent. then.

Q. Would it run 50 per cent. all the way back for twelve years?

A. No, sir.

Q. For what year can you say it did not run 50 per cent.?

A. I cannot say positively what year. In looking over the purchases or contracts, we have bought from 45 to 80 per cent. of the American Steel & Wire Company at different times for a number of years.

Q. You mean taking all of your purchases?

A. All of that commodity.

Q. You mean nails?

A. Nails, wire and staples.

Q. And how about tin plate?

A. Tin plate, we have bought principally of the two houses, N. & G. Taylor & Company, and McClure & Company, until the last two years. We have been buying a part of it of the American Sheet and Tin Plate Company.

Q. What proportion of tin plate did you get this year of them of all your requirements up to this time?

A. We have got about one-half of it, I think, from the American Sheet & Tin Plate Company. That is, tin plate you are referring to now?

Q. Yes. In 1912, how much did you get—what porportion?

A. I think about the same.

Q. You gave some figures on nails as to a variation in price from about \$1.50, Mr. Colton thinks, to \$3.50. He may not have that last figure right.

A. \$3.20, I think I said.

Q. Yes. Were those variations between different periods that you contrasted there?

A. That was at one period \$3.20, and \$1.50 at another period.

Q. Yes. You were not speaking of that variation between quotations at the same time?

A. No, sir; we never have had that difference quoted us. The \$3.20 was——

Q. Well, I think you have explained it already. I do not want to stop you, however.

Now, take the year 1910, when you had these purchasing agents; what did they do in the way of negotiating purchases? What were their functions and duties?

A. They kept track of stock and keep a record of our purchases, of whom we bought, and the price, and suggest to me when they think we ought to contract, and have the prices tabulated so that I can look at them easily and advise what I think they had better do, delay the contracting or have the contract light or heavy.

Q. Have what prices tabulated?

A. Prices that we have quoted us from the manufacturers.

Q. Who sends out for those quotations, they or you?

A. They do.

Q. And they get them in?

A. They get them in a part of the time, and I do a part of the time. They come in the general mail.

Q. And whose business is it to assort them?

A. One of the office girls assort them.

Q. Do they come to you primarily?

A. They come to my desk.

Q. What do they have to do, then, in getting the quotations?

A. Just as I stated a few minutes ago; keep the stock and keep a record, and ask for quotations when they think it is time to buy; and possibly we have had prices quoted to us by mail, or possibly by some factory in person. We might think it is a good time to feel of the market, and we ask them to send out inquiries.

Q. Then you have an opportunity of seeing the quotations?

A. Yes.

Q. And you can not give the quotations on a single purchase from 1902 down to 1912, can you, and who quoted upon any one purchase?

A. I did not say that I could not do that.

Q. Well, can you do it?

A. Yes.

Q. Just give for 1912 some purchases that you made; state what they were, and what were the competitors, and what prices they quoted.

A. I do not know that I can give you all of that. We have had \$1.80 by the American Steel & Wire Company.

Q. You are speaking of 1912?

A. 1912.

Q. On what?

A. Nails.

Q. What time in 1912 was that?

A. I can not give you the month. It is the latter part of the year.

Q. The latter part of 1912?

A. Yes.

Q. You made a purchase then, did you?

A. We did not purchase very much. We have not been buying—no, sir; I do not think we bought any at that price at all.

Q. I asked you, upon some purchase that you made, to give who the competitors were, and what prices were quoted you.

A. \$1.65.

Q. When was that, in 1912?

A. Early in 1912.

Q. Upon what?

A. Nails.

Q. Who made that price?

A. The American Steel & Wire Company.

Q. What other bidders were there on that?

A. The Cambria, Youngstown Sheet & Tube and the Grand Crossing.

Q. What month was that?

A. I can not tell you; the early part of 1912.

Q. Did you send out solicitations for bids on the price of nails?

A. Part of them.

Q. Which of those did you?

A. We sent to the Cambria and the Grand Crossing Tack Company.

Q. And the American Steel & Wire Company?

A. Their representative called on us.

Q. Now, give the bids made by each one on that purchase that you stated you made, and state from whom you made the purchase.

MR. SEVERANCE: He said that he made it from the American Steel & Wire Company; he has already said that.

THE WITNESS: We bought a few from the American Steel & Wire Company.

By MR. DICKINSON:

Q. What quantity?

A. I can not tell you the quantity.

Q. How long a delivery was it?

A. Their usual contracts are sixty days; sixty days to specify, and then they must be shipped,——

Q. Do you know——

MR. SEVERANCE: Let him finish.

By MR. DICKINSON:

Q. Had you finished?

A. No, not quite. Then they want to ship in thirty days, and they give us sixty days after specifications are in.

Q. What bids were there made by these other persons?

A. The Grand Crossing Tack Company, \$1.65.

Q. What did the Cambria bid?

A. \$1.65.

Q. Who else bid? Were those three all?

A. I can not tell you what the Pittsburgh was; I will not tell, because I only think.

Q. Can you mention any other instances where you made a purchase?

A. I think it was two years last fall; that would be 1910.

Q. What instance is that that you carry in your mind?

A. When I returned from the east I contracted for nails while in Chicago; at least for a part.

Q. With whom did you contract?

A. The Cambria.

Q. You contracted with the Cambria?

A. Yes.

Q. What quantity?

A. I don't recall the exact quantity.

Q. What part of the year?

A. In November. I recall that, because it was when I returned from the Atlantic City convention, in the fore part of November.

Q. From whom did you solicit a bid on that?

A. I called on three or four of them.

Q. Which three or four?

A. Cambria, the Pittsburgh Steel and the American Steel & Wire Company, and I phoned the Grand Crossing Tack Company.

Q. At what price did you contract?

A. \$1.45, Cambria.

Q. What was the bid of the Pittsburgh Company?

A. \$1.50.

Q. What was the bid of the American Steel & Wire?

A. \$1.50.

Q. What was the bid of the Grand Crossing?

A. Their price, I believe, was the same as the American, but they would extend the time of filling the contract, as they usually do.

Q. You got four bids, then, did you?

A. Yes.

Q. And three were the same?

MR. SEVERANCE: He didn't say so.

THE WITNESS: Two of them were the same.

By MR. DICKINSON:

Q. I thought you said the Pittsburgh was \$1.50.

A. I do not consider when we get sixty days time from one house at the same price, and another at thirty days, that the figures were the same.

Q. The figures were the same?

A. A part of the figures.

Q. When you solicit bids, do you solicit different deliveries?

A. Yes, we usually do; we do not always; we usually do.

Q. Then they were not bidding on the same thing, were they?

A. Some houses have an established price that they do not vary from a great deal, or established terms, rather.

Q. I want you to state if you can a single instance back of 1912 where you purchased any of the commodities that you have named, where in the negotiations or transactions leading up to the purchase you solicited bids from bidders upon exactly the same terms; I mean with delivery the same, and if you can recall an instance of that sort, state whom you solicited and the prices that were bid, and the time.

A. I can not give you any positive dates on that, any more than I have, but the American Steel & Wire Company never are the lowest except when the demand is a little greater than they can supply.

Q. Did you understand me, Mr. Cutler, to ask you any such question as that, as to whether the American Steel & Wire Company was ever the lowest? Did you understand my question to call for that?

A. You wanted to know about prices; what prices we contract at.

Q. I want to know from you if you can state any transaction that you carry in your mind of a purchase of any of these commodities that you have been speaking about, back of 1912, where you solicited quotations upon exactly the same terms and quantity and delivery, and where you can state whom you solicited, and who quoted and what prices they quoted.

A. Back of 1912 we asked quotations of the American, the Pittsburgh, the Cambria and the Grand Crossing. They were all lower than the American, and we bought of all of them.

Q. Is that the only answer you can make to that question?

A. Yes.

Q. Now, do you say that throughout this period from 1902

down to 1912 the Pittsburgh and the Grand Crossing Company and this other concern that you named, the Cambria, were always lower than the American on all the things upon which you asked quotations?

A. I do not think I stated that they were always lower; they are generally lower, nearly always. The general conditions are not always the same, and when the independents want orders badly they cut the price, and the American Steel & Wire Company's price seems to be the price that they call the price; they issue their price, and their price is supposed to be the same to all the jobbers, and that is called the price, and sometimes they will quote us and they will say "We will shade the price so much, two and a half or five cents."

Q. So the other competitors of the American Steel & Wire Company speak of that as the price?

A. Yes, because they are about the only ones that make the price generally; they sell all over the country, and they are known to a larger extent, I think, in that line than any one else.

Q. So that is the price that those quotations were made in reference to, whether they cut the price or shade the price or go over that price, that is the price, is it?

A. It is the price we compare with usually. I do not say that others do that.

Q. I mean, people you have been dealing with, and from whom you have been getting business.

MR. SEVERANCE: One moment. I would like to have that question and answer read, as I was interrupted for a moment. (The question and answer were read by the stenographer.)

MR. SEVERANCE: I do not understand that question.

MR. DICKINSON: I will strike the question out, then, and ask another one.

MR. SEVERANCE: But there was another question also, which was not answered.

MR. DICKINSON: Strike them both out.

By MR. DICKINSON:

Q. Did you state that you could or not tell what companies you got the bids from on nails in 1902?

A. I would not care to tell. I cannot recollect.

Q. You said it was the same people from 1903 to 1904 and 1905?

A. I know some of them that we bought from at that time.

Q. You know whom you bought of? I am asking now if you could name those you got quotations from?

A. I know some of them. I could not tell them all.

Q. Take the year 1902, on nails. Do you know now from whom you got quotations?

A. I know we got quotations from the Grand Crossing Company.

MR. SEVERANCE: One moment, Judge; I should like to have the stenographer read again the question and answer which you said you would strike out a few moments ago.

(The stenographer read as follows:)

“Q. So that is the price that those quotations were made in reference to, whether they cut the price or shade the price, or go over that price—that is the price, is it?”

“A. It is the price we compare with usually. I do not say that others do that.

“Q. I mean, people you have been dealing with, and from whom you have been getting business?”

MR. SEVERANCE: I do not understand what that question means.

By MR. DICKINSON:

Q. Do you understand it, Mr. Cutler?

A. No, sir; I do not, exactly.

MR. SEVERANCE: I do not know what that means. Will you kindly put that again and make it plainer, Judge.

By MR. DICKINSON:

Q. You say you do not understand what that means, Mr. Cutler?

A. Not exactly. I would like to hear it again.

(The stenographer again repeated the question referred to, as follows:)

“Q. I mean, people you have been dealing with, and from whom you have been getting business.”

THE WITNESS: I think I answered that before.

By MR. DICKINSON:

Q. Then answer it now, if you think you understand it.

A. I said we compared that price,—the price of the American Steel & Wire Company. I do not know whether others do or not, always, but occasionally they do quote as shading the price of the American Steel & Wire Company. I do not mean by that that it is usually done. It is occasionally done in that way. They usually name a price just as the American Steel & Wire Company do, in dollars and cents.

Q. You said that that was spoken of as the price, did you not?

A. I said it was so far as we are concerned, and occasionally a manufacturer does so. It is not general.

Q. What manufacturers, now, spoke to you of it as the price?

A. I cannot tell now what manufacturer it was.

Q. Can you tell on what occasions it was?

A. It was when we wanted to buy; when they were making us quotations.

Q. On such occasions as that they would do it?

A. Occasionally.

Q. Occasionally?

A. Yes.

Q. You do not know how often?

A. No, sir.

Q. And that occurred through what period? Throughout the times you have been talking about?

A. Yes; during the twelve years; not all the time. I mean it occurred during the twelve years, but not very often. I said occasionally.

Q. Do you know, and have you any recollection whether it was often or whether it was not often, what years it occurred in?

A. Not very often, no, sir.

Q. And you do not know who did it?

A. One of those four we bought of.

Q. Just one?

A. I could not tell you about that positively.

Q. You cannot tell what year it was, either?

A. No, sir.

Q. Or which one it was?

A. No, sir.

Q. Was it just one or more than one?

A. I presume it was only once, when we were making a contract. It has not been general, by any means, and it has not always been when we were making a contract.

Q. You mean to say that at some time, when you have made some particular contract some one of these men spoke in that way?

A. That is about what I mean.

Q. What contract was that, and who was it?

A. I cannot tell you.

Q. Do you state that there was only one time that that occurred?

A. No, sir; I did not say that.

Q. What did you mean to say about that?

A. I said it is occasionally done; not very often.

Q. You cannot tell how often?

A. No, sir.

Q. Or who did it?

A. No, sir.

Q. You regarded that as the price in reference to which other prices were made, did you?

MR. SEVERANCE: I object to that as incompetent and immaterial.

By MR. DICKINSON:

Q. Did you not?

A. Yes, sir; I did at the time.

Q. Well, all that time?

A. At the particular time it was made I referred to it.

Q. At the time you were making contracts?

A. No, sir.

Q. What time did you regard it in that way? And when was it you did not?

MR. SEVERANCE: I object to that question as utterly meaningless and ambiguous.

By MR. DICKINSON :

Q. Do you understand the question, Mr. Cutler?

A. I think I do.

Q. Then maybe it has some meaning to you, if it has not to counsel. Now, will you answer it?

A. Once it was made by phone from Chicago to our office.

Q. What was made by phone?

A. They would make the price a little lower than the regular price.

Q. What was the regular price?

A. The regular price was supposed to be what the American and mills generally were quoting.

Q. You regarded that as the regular price at that time?

A. Yes, sir.

Q. You understood that, and that this variation was from the regular price that mills were generally quoting?

A. Yes, sir.

Q. From time to time there are such prices that you understand to be the general price that the mills quote, are there not?

A. Why, that occurs with anyone who is selling any kind of goods, occasionally.

Q. Yes; and that was your observation of the business?

A. To a certain extent it was.

Q. I asked you down to and including 1905 as to the different companies from which you got bids on wire nails. Can you state the different companies from which you got bids on wire nails in 1906?

A. I think every year we have had quotations, including 1906, from about these same concerns.

Q. Which?

A. The American, Grand Crossing, Pittsburgh Steel, and the Northwestern Wire Company; about that time, I cannot state positively whether it was 1906, or not.

Q. And that is only a general impression that you got it from all of them in 1906, is it not?

A. How?

Q. It is only a general impression from which you state that you got bids from all of them in 1906?

A. We never have handled nails any year since we have been in the wholesale business that we have made contracts without getting prices from more than one factory.

Q. From more than one?

A. Yes; usually three or four, and sometimes more than that.

Q. But sometimes less than three or four?

A. No, sir.

Q. You said "Usually from three or four"?

A. I might say always, then.

Q. Always?

A. Yes, sir.

Q. And you cannot give the three or four positively for the year 1906?

A. These same ones, because we have dealt with these same mills.

Q. Can you give the quotations on any transaction in 1906?

A. No, sir.

Q. Or 1907?

A. No, sir.

Q. Or 1908?

A. No, sir.

Q. Do you know what relation their bids bore to each other for any of those years?

A. I know—to answer that, you probably would want the house specified, and the time.

Q. Well, all I want to know, Mr. Cutler, is what you know.

A. I know nearly every time we have had contracts there has been a variation in price.

Q. Have you finished?

A. Yes, sir.

Q. What do you mean by a "variation in price"?

A. They would not all quote the same.

Q. And there are other times that they did?

A. Very seldom that they have all been the same.

Q. But they did, did they not?

A. I cannot say that there has been any time when they were all the same.

Q. Can you say that there have not been times when they were all the same?

MR. SEVERANCE: Do you mean that question the way you put it? I do not think you meant it the way you put it.

By MR. DICKINSON:

Q. Can you say that there have not been times when all of them were the same?

A. Have not been times?

Q. Yes.

A. When they were all the same?

Q. Yes.

A. I cannot say.

Q. When you speak of variation in price, can you say that there have not been times from 1902 down to 1910 when all the bidders on wire nails were alike?

A. No, I cannot say that.

Q. Have there not been times during that period when two or more were alike?

A. Yes, sir.

MR. DICKINSON: That is all

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. The American Steel & Wire Company are in the habit of publishing their prices, are they not?

A. Yes, sir.

By MR. DICKINSON:

Q. Where and how do they publish them?

A. They are published in the trade papers usually.

MR. DICKINSON: That is all.

By MR. SEVERANCE:

Q. These trade papers state what the Steel and Wire are quoting?

MR. DICKINSON: No. You said they published them.

THE WITNESS: They do not always state that it is the

American Steel & Wire, and I do not know that they ever do, but they frequently say "the leading interests."

By MR. SEVERANCE:

Q. And you understand that to mean the American Steel & Wire?

A. Yes, sir.

MR. SEVERANCE: That is all.

MR. DICKINSON: That is all.

MR. SEVERANCE: I will call Mr. Linn.

WILLIAM A. LINN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Linn, where do you live?

A. Chicago.

Q. What is your business?

A. Assistant purchasing agent of the Chicago, Milwaukee & St. Paul Railway.

Q. Who is the purchasing agent of that company?

A. Mr. John T. Crocker.

Q. How long have you been connected with the purchasing department of that road?

A. About twenty years.

Q. Is Mr. Crocker active in the service at present?

A. Not entirely.

Q. How long has he been practically retired?

A. Oh, two or three years, probably.

Q. And you have had the management of the business, practically all of it, since then?

MR. COLTON: That is all very leading, Mr. Severance.

MR. SEVERANCE: I know it is, but it is only preliminary.

MR. COLTON: Very well.

THE WITNESS: Very largely.

By MR. SEVERANCE:

Q. Previous to the time that Mr. Crocker practically retired, two or three years ago, what connection did you have with the business?

A. As assistant purchasing agent, I had a pretty general knowledge of the buying conditions.

Q. How much did you have to do with making purchases or receiving quotations, previous to the time that Mr. Crocker turned it practically over to you?

A. Considerable; a great deal.

Q. For the last ten or twelve years?

A. Yes, sir.

Q. How long have you been with the Milwaukee Road altogether?

A. Over thirty years.

Q. And in your present position, how long?

A. About twenty.

MR. COLTON: That is, assistant purchasing agent for twenty years?

THE WITNESS: Assistant purchasing agent.

By MR. SEVERANCE:

Q. Were you or were you not as familiar with the buying and the quotations previous to two years ago, say for a period of ten years previous to that, as you have been since?

A. Practically as familiar; about the same, at least as much.

Q. Now, do you have anything to do with purchasing rails?

A. Not any.

Q. Who buys the rails for the Milwaukee?

MR. COLTON: I object to that unless the witness knows of his own knowledge.

MR. SEVERANCE: Answer the question; who buys the rails?

THE WITNESS: The vice-president, Mr. Bush.

By MR. SEVERANCE:

Q. What are his initials?

A. D. L.

Q. What part of the business of the corporation does he attend to, the traffic or operation?

A. The operation.

Q. In general, what commodities do you purchase that are manufactured by subsidiaries of the United States Steel Corporation, or any of them?

A. Why, we buy plates, structurals and bars, axles, sheets, wheels, tin plate, wire nails, and cement; I think that covers it.

Q. Do you buy any fence wire?

A. We buy fence wire.

Q. Do you buy any pipes or tube?

A. Boiler tubes and wrought pipe.

Q. Having reference to the practice of your department in the last twelve years; have you bought on contracts or otherwise?

A. Both.

Q. What is the rule, or is there any rule one way or the other?

A. There is not any rule; it is a matter that is governed largely by the general business conditions. Some contracts have been made, and then again we have bought in the open market.

Q. I will ask you in general, when you are making purchases of these various classes of material you have mentioned and this applies to the whole period of time, has it or has it not been your practice to receive quotations before entering into contracts or before placing orders in the market, except in emergency cases where you have to buy quickly?

A. Yes; quotations are always obtained from the various manufacturers.

Q. How general are the requests for quotations that you make, if you do make requests?

A. They are very general. We aim to get figures from all the important manufacturers; from anybody, in fact, who will fill our specifications with the proper material, and are able to quote us prices.

Q. Now, during the period of twelve years, what has been your experience in receiving these quotations from various

manufacturers and mills, on the class of products you have mentioned? Have those quotations come to you uniform or varying in price?

A. Oh, they vary.

Q. What has been your experience during that period of time as to whether or not there has been competition between the different mills in the sale of those products to you?

MR. COLTON: Just a moment. I object, on the ground that the witness is not competent to testify as to whether there has been competition.

MR. SEVERANCE: I think he is. Go ahead, we will take the answer.

THE WITNESS: I would judge there was competition, due to the fact that we obtain varying figures.

By MR. SEVERANCE:

Q. Do the different mills have any agents who call on you and solicit business?

A. Yes.

Q. Are they numerous or scarce?

A. Very many.

Q. How frequently do you receive calls from these gentlemen?

A. Oh, daily, weekly and monthly.

Q. Has it been a continuous performance?

A. Right along; I have some callers that come in two, three or four times a week, maybe.

Q. What do they come for?

A. Orders; that is the general desire.

Q. They have been soliciting business?

A. Yes.

Q. What has been the practice of your department in placing orders after receiving quotations? Do you place them with the lowest bidder, or who gets the business?

A. The bids will be tabulated, and the lowest bidder will usually obtain the orders.

Q. What cases are there in which the lowest bidder did not obtain the order; what class of cases?

A. There are none; there are no such cases.

Q. You said you ordinarily obtained them? I thought there were some cases where you did not.

A. I did not mean it that way. I had in mind, in answering that question, that there were some cases where we placed orders, emergency cases where bids were not generally solicited.

Q. But where you got bids?

A. Where we got bids, the lowest bidder gets the business.

Q. Now, so far as determining who usually got the orders in those cases, is that your function or that of somebody else?

A. That is my business.

Q. That is your own business? You exercise it?

A. Yes.

Q. Has there been any attempt on the part of any of the directors or officers at any time to get you to depart from that rule of letting contracts to the lowest bidder?

A. No, sir; no such representations have ever been made to me.

Q. You act independently, on your own judgment, do you?

A. Entirely.

Q. Has it ever been the case that when you have received bids and some person or corporation has been the lowest bidder, that other bidders have reduced their price to meet the price named by some lower bidder?

A. That condition has occurred at times.

Q. From whom have you bought your bars?

A. Jones & Laughlin, Illinois Steel Company, the Inland Steel Company and the United Steel Company.

Q. Where are they, Canton?

A. Canton, Ohio. And Cambria, and probably some others that I don't recall.

Q. Did you ever buy any from the Lackawanna?

A. The Lackawanna Steel? Yes.

Q. Ever bought any from the Republic Iron & Steel Company?

A. I think not.

Q. Have or have not your requirements in bars been placed in the manner you stated after receiving bids, and upon a competitive basis?

A. Yes; they have always been placed the same way.

Q. Take the matter of plates: Where have you secured your requirements of plates?

A. From the Inland Steel Company, the Portsmouth Steel Company, the Lackawanna, the American Rolling Mill Company, the Cambria Steel Company, the Cleveland Steel Company; I think that comprises about the list; oh, yes, the Illinois Steel Company.

Q. Do you ever buy any plates from La Belle?

A. Yes.

Q. You did not name them. You did not name Jones & Laughlin. Did you ever buy any plates from them?

A. Yes, sir.

Q. Did you ever buy any plates from Otis?

A. We bought one order from them.

Q. Did you ever buy any from Lukens or Worth, those people at Coatesville?

A. Yes; we have bought through their agents.

Q. Who are their agents?

A. A. M. Castle & Company, Chicago.

Q. Whose agent is he?

A. He is the agent for the Lukens Steel Company.

Q. Do you remember buying any from Worth, either through an agent or otherwise?

A. No, sir.

Q. You have given what you remember now?

A. That is my recollection.

Q. Have those orders for plates been let on a competitive basis?

A. Yes, sir; at different times, to those different people.

Q. I understand; but I mean the lowest bidder has got the business?

A. Oh, yes.

Q. You have solicited bids and let it to the lowest bidder?

A. Oh, yes.

Q. Your general testimony with reference to that would apply to plates?

A. That is right.

Q. Take structural steel; where have you bought that?

A. From the Illinois Steel Company, the Inland Steel Company, the Lackawanna, Jones & Laughlin, Cambria, the Eastern Steel Company.

Q. Where is that located?

A. Pottsville, I believe. We have also bought from jobbers.

Q. Does your testimony with reference to receiving various bids and letting to the lowest bidder apply to structural?

A. Yes, sir.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WILLIAM A. LINN,

the witness under examination at the taking of recess, resumed the stand.

DIRECT EXAMINATION (Continued)

By MR. SEVERANCE:

Q. Mr. Linn, take the matter of axles—car axles; where have you purchased car axles over this period named?

A. Car axles have been purchased from the American Bridge Company; Willard Sons & Bell; Illinois Steel Company; Standard Forgings Company. Those are the principal manufacturers.

Q. Have you bought any of that concern in Cincinnati?

A. Pollak?

Q. Yes.

A. I was going over in my mind whether we had or not, within that period. I think not.

Q. Have they solicited your business, the Pollak people?

A. They did at one time, but whether it was within this period or not, I do not know.

MR. COLTON: The past twelve years?

MR. SEVERANCE: Yes.

By MR. SEVERANCE:

Q. You do not think they have?

A. No, I do not think they have, within that time.

Q. Willard Sons & Bell are located where?

A. South Chicago.

Q. Is that a good sized concern?

A. I have always so considered it.

Q. And the Standard Forgings Company; where is that?

A. That is a large concern; they are at Indiana Harbor.

Q. That is a suburban place?

A. Yes.

Q. Just near Chicago?

A. Yes.

Q. And, of course, the Illinois Steel is at Chicago?

A. Yes, sir.

Q. So you have bought axles from people near at hand, have you?

A. Yes, sir.

Q. Have those orders been placed on a competitive basis?

A. Yes, sir.

Q. Has that competition been of the character you have described as to other commodities?

A. The very same.

Q. Take up next the matter of angle bars. From whom have you bought your angle bars?

A. Angle bars have been obtained from the Illinois Steel Company.

Q. Have you bought anything else that is used for the same purpose as angle bars, from any other company?

A. Yes; we have bought patent rail joints.

MR. COLTON: What is that?

THE WITNESS: Patent rail joints.

By MR. SEVERANCE:

Q. Of which have you used the most, angle bars or patent rail points?

A. I should consider that the tonnage was about equally divided between the angle bars and all the patented joints bunched together. Yes, we have bought some angle bars also

from the Cambria Steel Company, I now recollect.

Q. From whom have you bought these patent rail joints?

A. From the Rail Joint Company.

Q. What company?

A. The Rail Joint Company.

Q. Where are they located?

A. They are at—their headquarters are in New York. They are middlemen, so to speak. They place their orders for joints with—well, with other steel companies.

Q. And have them made to order?

A. And have them made; yes, sir. They sell them, and the bars are made or the joints are made by the different steel companies.

Q. Do you know what steel companies make joints for them, and where their shipments come from?

A. The Rail Joint Company's shipments, I believe, have for the last two years at least, come from the Illinois Steel Company.

Q. Where did they come from before that, if you know, or do you not remember?

A. I do not recall definitely.

Q. What other rail joint companies are there that you have bought from, aside from this one?

A. The Cambria Steel Company sells the 100 per cent. joint, of which we have used quite a number, quite a heavy tonnage; and the Q. & C. Company—

Q. What does that stand for? Do you know?

A. It stood, originally, for Quincy & Crandall, who were partners in that business. That is my understanding, and in order to make a peculiar, faddish name out of it, they just simply cut out the names and used the initials Q. & C.

Q. It sounds like the Queen & Crescent Railroad. Is that a manufacturing concern?

A. No, sir; they are middlemen.

Q. Who makes their joints for them?

A. The Lackawanna Steel Company and the Pennsylvania Steel Company.

Q. Do you buy considerable of them?

A. Yes; quite a good many.

Q. Are these products, angle bars and rail joints, purchased on a competitive basis in the same way as the other things you have mentioned?

A. Yes, sir.

Q. That is, you get quotations?

A. Yes; they are bought on the best prices that we are able to obtain.

Q. Take the matter of tie plates. What kind of tie plates do you use, and where have you purchased them?

A. We have used malleable iron tie plates, bought from the Beaver Dam Malleable Iron Company; we have used wrought iron plates, made by the Sellers Manufacturing Company; and we have used steel plates, made by the Illinois Steel Company and the Inland Steel Company; and also another type of a steel plate, made or sold by Spencer-Otis Company. That was made at the Inland Works.

Q. How do you buy your tie plates? Do you buy them on a competitive basis?

A. All bought on a competitive basis.

Q. What percentage do you think of your tie plates you have bought from the Illinois Steel Company?

MR. COLTON: Steel tie plates, are you speaking of?

By MR. SEVERANCE:

Q. They do not make malleables, do they?

A. No; they do not make anything but steel.

Q. What proportion of your total requirements of tie plates do you think you have bought from the Illinois Steel Company?

A. Over a period of twelve years?

Q. Yes.

MR. DICKINSON: You mean the proportion of steel tie plates, or of all?

MR. SEVERANCE: I will ask him about both.

By MR. SEVERANCE:

Q. Are these malleable tie plates and steel tie plates competitive articles in the market?

A. Oh, to some general extent, but not in close competition, because of the difference in the metals. We would not try to

buy steel tie plates on the same basis as we would malleable iron.

Q. Are they used for the same purpose?

A. Yes, they are used for the same purpose, but they are of vastly different character, and we would pay more for a malleable iron plate than we would pay for steel at any time.

Q. What proportion of your total requirements in tie plates would you say has been malleable iron instead of steel?

A. Over this period?

Q. Yes.

A. Probably 70 to 75 per cent.

Q. Now, you stated that about 70 to 75 per cent. of your tie plates are malleable iron?

A. Yes.

Q. What per cent. are wrought iron, or have been, over that period?

A. About 15 per cent., probably.

Q. Well, then, of your total requirements in tie plates over that period not over 10 per cent. have been steel; is that right, or 10 to 15 per cent., rather?

A. No; that would not figure it. Of the 25 per cent. of plates other than malleable—now, let me see; probably 10 per cent. of that 25 would be steel plates.

Q. Probably 10 per cent. of the 25 per cent.?

A. Yes.

Q. Oh, then, you use almost entirely either malleable or wrought iron, do you?

A. No. Let me see. I am wrong about it yet. It would be—because the iron plates were the smallest proportion; that is, the wrought iron plates—Sellers.

Q. That is the smallest proportion?

A. Yes. The steel would run about 20 per cent., maybe, and the iron about five.

Q. So you think that about 75 per cent. was malleable, 20 per cent. steel, 5 per cent. wrought iron?

A. You have got it.

Q. Of the 20 per cent. of steel, how did you distribute

between the Illinois Steel and the Inland and the Spencer Otis?

A. Oh, about 40 per cent. to the Inland and 40 per cent. to the Illinois Steel and maybe 20 per cent. for Spencer Otis—of the steel.

Q. Of the steel?

A. Yes.

Q. Do you buy any tin plate?

A. In rather limited quantities, yes, we do.

Q. From whom have you bought your supplies of tin plates?

A. We have purchased tin plate from Follansbee Brothers & Company; some from—oh, various jobbers.

Q. Have you bought any of your tin plate from the American Sheet & Tin Plate Company?

A. None.

Q. Have you purchased woven wire fence?

A. Yes.

Q. From whom have you bought that?

A. From the American Steel & Wire Company and the Pittsburgh Steel Company; those two.

Q. How have those orders been placed? On a competitive basis or otherwise?

A. Not entirely. Orders for those products have been issued according to our judgment as to the quality of the material offered, and we did not put them strictly on a parity as to the quality; and in that way we did not get comparative or competitive bids, strictly speaking.

Q. Did you secure quotations on woven wire fence before placing your orders?

A. Yes.

Q. And were those quotations that you got from other manufacturers uniform or varying?

A. They varied, because the fence varied; the quality of the fence, the kind of fence offered varied.

Q. That is, there were no two that looked exactly alike?

A. Nothing to compare on a competitive basis, apparently.

Q. But they were both offered and used for the same purpose?

A. Yes, sir.

Q. From whom do you buy your nails?

A. From the American Steel & Wire Company, Jones & Laughlin Steel Company, the Cambria and the Pittsburgh Steel Company.

Q. Did you ever buy any nails from Kokomo?

A. I think we have—I am not positive about nails; I think we have had the Kokomo Company on our books for wire of some kind. I do not think it was as to nails.

Q. Have you bought any nails from the Grand Crossing Tack Company?

A. Not for a good many years. I think it is outside of the period about which you have asked.

Q. Take your nail purchases: have they been placed in the same way as these others you have testified to?

A. Just the same, on the basis of the bids received from the manufacturers.

Q. And have the bids varied or have they been uniform?

A. They have usually varied.

Q. Where do you buy sheet steel?

A. We buy sheet steel from the Cleveland Steel Company, Jones & Laughlin Steel Company, Portsmouth Steel Company, the Inland Steel Company, the American Rolling Mill Company; possibly from some others that I do not recall at this time.

Q. How have those orders been placed; on a competitive basis?

A. On the basis of the best price that we could obtain.

Q. I did not ask you about barbed wire. I forgot that.

A. Barbed wire is practically on the same basis as nails, because they are in a uniform classification. They have been bought from the same makers from whom nails have been bought.

Q. And in the same manner, and you have received bids in the same way?

A. Just about.

Q. What about boiler tubes; where have you bought them?

A. Boiler tubes have been obtained from Worth Brothers,

the Parkesburg Iron Company, the Tyler Company—I do not recall the name in full—the Detroit Seamless Steel Tubes Company, the Globe Seamless Steel Tube Company, the National Tube Company. I think those are the concerns we have bought from.

Q. In what way have you placed your orders for boiler tubes? Has that been on a competitive basis or otherwise?

A. We have always bought upon prices and placed the orders accordingly.

Q. Have your purchases been considerably distributed?

A. Quite a good deal so.

Q. What about pipe?

A. Wrought iron pipe or wrought steel pipe?

Q. Yes.

A. That has been obtained from the La Belle Iron Works, Longmead Iron Company, from the National Tube Company, and some from jobbers.

Q. Have you ever bought any from Mark or Spang-Chalfant?

A. I think we have made some purchases from Spang-Chalfant, quite a number of years ago.

Q. Have you ever bought any Mark pipe from jobbers?

A. Yes.

Q. A small or large quantity?

A. Well, it is rather a limited quantity.

Q. On what basis have you made your purchases of pipe?

A. Prices have been obtained in the market from time to time and orders placed with the low man.

Q. By the way, have you used altogether steel pipe, or have you used some iron pipe?

A. We have used both; we have used steel pipe for the past four years, I should judge, and prior to that we used iron pipe.

Q. You spoke of buying wheels; car wheels and locomotive wheels, I suppose you mean?

A. Passenger and engine wheels.

Q. From whom have you made your wheel purchases?

A. From the Carnegie Steel Company and the Standard Steel Works and the Midvale Steel Company.

Q. Do you use iron wheels too?

A. Iron car wheels for freight cars, yes. Those are made in our own foundry.

Q. I was going to ask you where you got them. You make them yourself?

A. Yes.

Q. Then your wheel purchases are for passenger cars and locomotives?

A. Yes.

Q. And your requirements have been obtained from those three sources you mentioned?

A. Yes.

Q. How have you placed those orders, on competitive bids?

A. On prices; yes.

Q. Does your general testimony apply to this in that regard?

A. Exactly.

Q. Could you give me a general idea of about how much your annual requirements are in miscellaneous steel products outside of rails?

A. Well, that would be an approximation, but I would state that it would be not less than 50,000 tons.

MR. SEVERANCE: That is all, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. Do you recall the cut in price of the steel products that followed Mr. Topping's announcement that he did not care to remain longer in the co-operative movement?

A. Why, I recall that there was a cut, or such announcement made.

Q. Did the cut extend to steel products generally, so far as you observed?

A. My recollection now is that it was on bars.

Q. The original cut was on bars?

A. The original cut was on bars.

Q. Do you now recall whether that cut extended to other products, either at the time or shortly afterward?

A. No, I do not.

Q. You have no recollection as to any other products than bars to which the cut applied?

A. No.

Q. Do you now recall approximately what the cut was in bars?

A. No, I do not.

Q. Do you recall approximately the date at which that cut occurred?

A. Well, it was five or six or seven years ago, I think.

Q. Do you think it was about in the year 1909, this cut that you are now speaking of?

A. I don't recall definitely enough to be able to state that.

Q. Do you associate that reduction with the Republic Iron & Steel Company, some announcement by Mr. Topping? Is that associated in your mind in that way, this cut you speak of?

A. No, I have no association—I do not associate it with anybody.

MR. DICKINSON: Will you please repeat that answer?

(The stenographer repeated the answer.)

THE WITNESS: That is not what I mean.

By MR. COLTON:

Q. I thought maybe you recall the time as following some announcement by Mr. Topping, or otherwise; is that the way you recall it, the time of the cut?

A. No; I do not connect Mr. Topping with the proposition at all. My recollection merely is that the Republic Iron & Steel announced that reduction.

Q. Was that followed by a cut in the price of bars, generally, when the Republic made that announcement of its cut?

A. I could not say; I rather think it was, but I could not say positively.

Q. Well, now, as purchasing agent, was it your duty or one of your duties to observe the market and keep track of such cuts as that?

A. Yes.

Q. Now, is it your recollection that there was a general cut following this announcement by the Republic Iron & Steel Company, whenever it occurred? In bars, I am speaking of.

A. That is what I stated.

Q. Do you recall about the time that the Stanley Committee began its investigation? Have you any recollection of that?

A. Yes, I think so, in a general way.

Q. Didn't this announcement by the Republic Iron & Steel occur at about the same time that the Stanley Committee began its investigation?

A. I thought it was farther back than the time when the Stanley Investigation was started.

Q. You have not any very definite recollection as to just when this announcement was made by the Republic, have you?

A. As I stated, I have not.

Q. Do you recall the cut that followed a cut made by Gates of about \$20 a ton in some wire products?

A. Yes; I remember there was. I have a rather hazy recollection of that.

Q. Now, was there not a general cut in the price of steel products at the time that Gates made the cut in wire products?

MR. SEVERANCE: I object to that as not cross examination, as I have interrogated the witness about nothing previous to twelve years ago, and as counsel knows, this Gates cut was made 'way back in 1899 or 1900.

(The question was repeated by the stenographer.)

THE WITNESS: I don't recall.

By MR. COLTON:

Q. Don't you recollect anything about the fact that the Gates cut was followed by a cut in other steel products?

A. No, sir.

MR. SEVERANCE: Just a moment, Mr. Colton. May it be understood that all the questions relative to the period cov-

ered by the Gates cut, or previous to twelve years ago, go in under my objection as not proper cross examination?

MR. COLTON: Yes.

By MR. COLTON:

Q. From whom did you purchase plates in the year 1901?

A. I couldn't tell you.

Q. From whom did you solicit bids in the year 1901 on plates?

A. Well, I do not know. I should say generally the companies who were doing business at that time, which, as I recall, were Jones & Laughlin, the Portsmouth Steel Company and maybe some others; I do not recall just now who they were.

Q. Take the year 1902; from what different companies did you solicit bids on plates?

A. I could not tell you.

Q. Do you recollect any companies?

A. No, I do not.

Q. In the year 1900, do you recollect any companies from whom you solicited bids on plates?

A. No; I presume they are the same people, but I could not state definitely.

Q. Take the year 1903?

A. The same answer.

Q. 1904?

A. The same.

Q. 1905?

A. The same answer.

Q. 1906?

A. The same.

Q. 1907?

A. There was a period, of course, where we commenced to get more people on the list. I do not know where that came in, though. The Cambria Steel Company and the Inland, and the other companies whom I have heretofore mentioned, were probably brought in on the bidding in those years.

Q. I have asked you up to 1906. Now, for the year 1907 do you recall whether the Cambria or the Inland—that you

did solicit bids from either the Cambria or the Inland during that year?

A. I do not recall definitely. I presume I did.

Q. You do not know just when you began to get this broader list that you spoke of, do you?

A. Oh, it might have been back of 1904.

Q. But you do not recall just when that was?

A. No; I do not recall just when it was.

Q. In 1908 from what different companies did you solicit bids?

A. All these companies, probably, that I have mentioned.

Q. Well, name those that you remember for the year 1908.

A. Jones & Laughlin, Cambria, Lackawanna, Inland Steel Company, Portsmouth, Illinois Steel Company.

Q. Do you now recollect that you solicited all of those on each of your plate contracts for the year 1908?

A. No, I do not; I presume I did.

Q. Do you now recollect that Portsmouth was solicited at all during the year 1908?

A. No; I could not state as to that.

Q. Can you state as to the Lackawanna?

A. Oh, yes; they were solicited right along.

Q. Can you state as to the Illinois Steel Company?

A. Yes.

Q. And Jones & Laughlin?

A. Yes.

Q. In 1909 from what different companies did you solicit bids?

A. From the same companies.

Q. In 1910?

A. The same.

Q. Do you now recollect that on each order you solicited from each of those companies in 1909?

A. I did not get that question.

MR. COLTON: Will you read the question?

(The question was read by the stenographer.)

MR. COLTON: Solicited bids from each company.

MR. SEVERANCE: I was going to say, you are turning it around. The other people do the soliciting.

MR. COLTON: Solicit quotations; I think the witness understands.

THE WITNESS: I may not have gotten bids on every order I placed.

By MR. COLTON:

Q. In 1911 from what different companies did you——

A. (Interposing) The Illinois Steel Company; Jones & Laughlin——

Q. (Interposing) Just a moment. I want to make it clear. You understand, now, that I am referring to quotations that you received from the different companies, in asking these quotations?

A. Certainly.

Q. Very well. Go on with your answer.

A. The Illinois Steel Company, Jones & Laughlin, Cambria, Lackawanna, Inland Steel Company, American Rolling Mill Company.

Q. That is 1911. In 1912 from what companies did you solicit?

A. The same companies.

Q. How many contracts did you make in 1911 on plates?

A. I do not think we made any.

Q. You bought——

A. (Interposing) In the open market.

Q. You bought in the open market. How many purchases did you make in 1911?

A. Oh, a great many.

Q. You do not now recollect just the particular companies that you took up each one of these different purchases with, do you?

A. Oh, I could not; no, sir.

Q. Would the same thing be true of 1910, where you——

A. (Interposing) Just the same.

Q. And would the same be true for the year 1912?

A. No. I think I had one or two contracts in 1912.

Q. With what companies did you have them?

A. I had a contract with the Illinois Steel Company, and one with Jones & Laughlin.

Q. When was the contract let to the Illinois Steel Company, as nearly as you can recollect, for the year 1912?

A. It was quite early in the year, I think.

Q. Can you give the approximate tonnage?

A. Yes; about 2,000 tons.

Q. When was the one let to Jones & Laughlin?

A. That was let a little later; about three months later, I think.

Q. And what was the tonnage of that?

A. My recollection is it was 750 tons.

Q. Do you recollect the other parties quoting on that, that first 2,000 tons that you placed with the Illinois Steel Company, and about what the quotations were?

A. The respective figures?

Q. Yes.

A. No, sir; I do not recall them.

Q. Do you know the relation of the figures to one another?

A. No; that is what I just answered. I do not recall them.

Q. Take the contract for this 750 tons: Do you recall the parties to whom you offered that tonnage and whom you asked for quotations?

A. Yes; in a general way.

Q. I mean, do you now recollect definitely what companies did quote on that 750 tons?

A. Probably all these different people.

Q. Yes; but do you recollect that definitely, or only just as a matter of assumption?

A. In a general way.

Q. Do you know what the different prices were, the relations they bore to each other on that 750 tons now, as a matter of recollection?

A. No, I do not know just what each bid was. I cannot recall those varying figures.

Q. Now, the year 1913: With what different companies have you contracts?

A. This year we have a contract with the Illinois Steel Company for about the same tonnage, 2,000 tons.

Q. When was that made?

A. That was made late last year.

Q. About what time?

A. About in December, as I recall it.

Q. For 2,000 tons, I believe you said?

A. Yes.

Q. Have you any other contracts?

A. One with the Inland Steel Company.

Q. For what tonnage?

A. 500 to 1,000 tons.

Q. When was that placed?

A. About the same time. This Inland contract was of a little later date than the other one early this year.

Q. Coming back to 1912: You bought plates in addition to those you purchased from Jones & Laughlin and the Illinois Steel Company, did you?

A. Oh, yes.

Q. But that was on numerous orders on the outside?

A. Precisely.

Q. And you cannot remember now the different companies with which you took up each one of those individual orders, can you?

A. No, sir; I cannot.

Q. Nor the prices on each of those individual orders?

A. Oh, no.

Q. Nor the relation that the quotations on each of those different orders bore to one another?

A. I could not begin to remember it.

Q. Take the period from 1901 to 1907 inclusive; do you recall the relation the various prices quoted by the different manufacturers on plates, where they did differ, bore to one another, or the number that were uniform at a given time; that is, the number that quoted the same price at a given time?

A. No, sir; I do not.

Q. Would your answer be the same for 1908?

A. Yes, sir; necessarily.

Q. For 1909?

A. Yes, sir.

Q. For 1910?

A. Yes, sir.

Q. For 1911?

A. Yes, sir.

Q. For 1912?

A. I remember the figures for 1912 and 1913.

Q. 1912 is the first year that you recall the figures?

A. Those are the first years that I am certain about.

Q. Would your answers be the same for structural material as for plates?

A. Yes.

Q. You have in mind these different questions that I have asked you in reference to plates?

A. Yes, sir.

Q. Would your answers be the same in respect to bars?

A. Just the same.

Q. Do you recollect the figures for 1912 and 1913 in respect to structural?

A. Yes, sir.

Q. With what different companies did you place your structural steel in 1912?

A. The Illinois Steel Company and Jones & Laughlin. That is, part of our requirements.

Q. Is that all your contracted requirements, so far as you have them under contract, I mean?

A. Yes, sir.

Q. What tonnage did you give to the Illinois Steel in structural?

A. I could not tell that, because our structural and plates and bars were all lumped.

Q. Your plates and bars and structural were all put in one?

A. They were all bunched.

Q. Did you have one base price for plates and another base price for bars, and another base price for structural?

A. No, sir; we had a base price for bars and a base price for plates and structural.

Q. I do not know whether I understand you or not. Did you have one base price that covered all three?

A. No, sir; one base price for bars and one base price for plates and structurals.

Q. In regard to the purchases other than those by contracts for 1912, you do not now recall the different companies bidding on each of the individual purchases, and the relation their bids bore to one another, do you?

A. No; I do not recall that definitely. We had contracts with the Portsmouth Company back there in the years—well, somewhere between 1904 and 1907, but I do not remember just whether they ran in sequence or in and out.

Q. Now, is the same thing true in regard to plates, certain of your plate tonnage not covered by contract, for the year 1912?

A. As to my recalling the different figures?

Q. Yes, and the relation they bore to each other?

A. No, I could not tell you.

Q. And bars: would your answer be the same?

A. The same thing.

Q. And would it be the same for 1913 as it is for 1912, in respect to both bars and plates?

A. No. I have some recollection of fresh trades that were made on individual orders.

Q. I will take up 1913 later, then. Returning to 1912, could you give me the approximate tonnage given to the Illinois Steel Company in plates, structural and bars? I understand that the contract covers all three.

A. Yes. Well, I didn't divide it; it was all lumped; I didn't split it.

Q. I asked for the entire tonnage given to the Illinois in all those products.

A. 2,000 tons. That was the contract, I am speaking of there.

Q. When did you make the contract with the Illinois Steel Company? This is 1913; you may have given it, but I have forgotten it if you did.

A. It was in December last.

Q. December, 1912?

A. Yes.

Q. And with Jones & Laughlin, give the date of that contract again; I wish you would, for the year 1913.

A. Jones & Laughlin had no contract in 1913. That was the Inland.

Q. All right; would you give the Inland?

A. I think that contract was made in January, this year.

Q. Do you recall the base price of plates in the Illinois contract? I am now speaking of the one that was made in December, for the year 1913, to be delivered in 1913?

A. That contract was \$1.60, according to my best recollection.

MR. SEVERANCE: Which contract is that, with the Inland?

THE WITNESS: No; that is Illinois Steel.

By MR. COLTON:

Q. And the Inland was made about a month later?

A. About a month later.

Q. And what was that?

A. \$1.60.

Q. That is on what material? What did I ask you about?

A. That is on plates and structural.

Q. Did you have a different base for your bars?

A. I believe we had a different base for bars, which was five cents a hundred lower.

Q. What was the price of each of those different companies?

A. \$1.55.

Q. For each of the different companies?

A. Yes.

Q. That quotation of \$1.60 is f. o. b. Pittsburgh?

A. No; that was delivered at Milwaukee.

Q. And the \$1.55 was delivered at Milwaukee?

A. Yes.

Q. Who paid the freight on that?

A. The shippers.

Q. Are all your bids that you receive for steel delivered at Milwaukee?

A. Most of them.

Q. Would your answers for various years in respect to wire nails be the same as in regard to plates, structural and bars?

A. Just about the same.

MR. SEVERANCE: What do you mean by that? Generally, as to what?

By MR. COLTON:

Q. I will ask you whether you now recall and keep in mind the different questions that I asked you about the prices and the relation of prices to one another?

A. Yes.

Q. And the times when the prices of the manufacturers were about the same, and the extent to which they varied? You have got those questions in your mind?

A. Yes.

MR. SEVERANCE: You have asked about certain specific contracts in bars. Do you mean to have your question refer to these general matters?

MR. COLTON: These general questions that I have asked him about plates and structural and bars; so as to save time; that is all.

THE WITNESS: The answer is the same; that is my understanding.

By MR. COLTON:

Q. Would your answers be the same as regards boiler tubes?

A. Yes, I think so.

Q. Axles?

A. Yes, I think the same. I do not recall the exact circumstances in each trade.

Q. Do you recall as to any of those, back of 1911, the prices of the different products or the relations that the prices bore to each other, or the extent to which several of the manufacturers at given times quoted the same prices, and the extent to which they quoted different prices?

A. No; I cannot tell that at this time.

Q. Would your answers be the same for wrought pipe as for structural and plates?

A. Yes.

Q. For tin plate?

A. Yes.

Q. For barbed wire?

A. The same.

Q. You have nothing to do with the buying of rails, as I understand?

A. No, sir.

Q. Those are bought by the vice-president, and whatever conference he has with the other officers of the company you have nothing to do with?

A. No; I am not in on that.

Q. Only during the last two years you have been purchasing agent?

A. Well, I am not purchasing agent now, although I am in active general charge for the last two years.

Q. And during the last two years your duties have been somewhat broader than they were before, have they not?

A. Well, just a trifle.

Q. The gentleman that is purchasing agent has practically retired in the last two years?

A. Yes; but he has been there continuously, and he is there now.

Q. I understand. I was going to say that your activities had somewhat broadened in the last two years, as compared with what your duties were with respect to the purchase of steel products prior to that time; is that correct?

A. No; my buying activities have been practically the same for quite a number of years back of 1912.

Q. You put it up to the purchasing agent, did you not?

A. No, sir; not unless I wanted to.

Q. But you did at times?

A. I might have conferred with him occasionally.

Q. Do you confer with him now?

A. Not very often.

Q. What you mean is that you confer with him less now,

and you assume more responsibility than you did in the past?

A. That is the idea exactly.

Q. Would your answer be the same in respect to sheets?

A. Yes.

Q. Did you, when you placed your contracts for patent rail joints, or for splice bars, get separate bids on splice bars and patent rail joints?

A. Yes; they are not strictly competitive goods, inasmuch as one joint may have particular features of excellence, and we would regard that as worth so much money.

Q. Then the prices are not strictly comparable between the two articles, and for that reason you separate the two articles?

A. That is the idea.

Q. How long have you been using the patent rail joints?

A. For ten years, I guess; ten or twelve years.

Q. Has the proportion between the patent rail joints and the splice bars or angle bars been the same for the whole period, or have the patent rail joints come more into use?

A. They have obtained a greater footing, I think, in the supply for railroads than in former years.

Q. Would your answers be the same in respect to poultry netting as in regard to the other products?

A. No poultry netting.

MR. COLTON: That is sufficient.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. Just one or two questions. These rail joints and angle bars are used for the same purpose?

A. They are used for the track fastenings, for fastening rails together; they are for the same purpose.

Q. Are there or are there not times when you will have more than one contract running at the same time, covering the same commodity, with a uniform price to each mill, where the initial bids or tenders or quotations to you have been varying?

A. Yes, they have varied in that way, and have been brought into line by dickering.

Q. Just one other question that I forgot. Do you buy the bridges for the road?

A. No, sir.

MR. LINDABURY: He said he did not.

MR. SEVERANCE: When did he say it?

MR. LINDABURY: A little while ago, after I got here.

MR. SEVERANCE: Maybe he did. I did not hear him say it.

THE WITNESS: No, I did not say that. We do not buy the bridges.

By MR. SEVERANCE:

Q. Which official in your service handles that department?

A. The chief engineer.

MR. SEVERANCE: That is all.

MR. DICKINSON: That is all.

MR. SEVERANCE: Mr. Van Hagen.

GEORGE E. VAN HAGEN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Van Hagen, where do you live?

A. Chicago.

Q. What is your business?

A. I am vice-president of the Standard Forgings Company.

Q. And what are your functions as vice-president of that company?

A. I have entire supervision of buying and selling the material, as well as general supervision of the operation of the works.

Q. What is the business of that corporation?

A. Manufacturing steel railroad car axles, locomotive axles and heavy steel forgings, consisting of engine shafts and connecting rods, mining machine forgings and so forth.

Q. Which is the larger part of your tonnage?

A. Railroad car axles.

Q. Steel forgings or the other?

A. The railroad car axles.

Q. What is your annual tonnage in all classes of product?

A. About 90,000 tons a year.

Q. And what is your annual tonnage in locomotive and car axles?

A. About 80,000 tons a year; 80,000 to 85,000.

Q. From what do you manufacture these car and locomotive axles; that is, in what form is the steel when it comes to you?

A. Open hearth steel billets.

Q. You make them out of steel billets?

A. Steel billets; yes, sir.

MR. COLTON: Is this a year?

THE WITNESS: Yes, per year.

By MR. SEVERANCE:

Q. And where is your market for car and locomotive axles, Mr. Van Hagen?

A. In Chicago, St. Louis, St. Paul and west of the Mississippi River, with occasional shipments to Detroit.

Q. You do not get further east than Detroit?

A. No.

Q. Will you state with whom you come in competition in the sale of car and locomotive axles in the territory you have mentioned as your market?

A. Willard Sons & Bell Company, of South Chicago; the Pollak Steel Company, of Cincinnati; Carnegie Steel Company, Pittsburgh Forge and Iron Company, Cambria Steel Company, and, for the past year or so, the Illinois Steel Company have operated a forge at Gary, Indiana.

Q. What percentage of the total business of the country,

would you say, is included in the axles manufactured by Carnegie and the Illinois Company, so far as you know?

MR. COLTON: I object to that on the ground that the witness is not shown to be competent to testify on this subject, or that he has made any preparation from statistics that will enable him to testify.

MR. SEVERANCE: Cut out the question if there is any objection made.

By MR. SEVERANCE:

Q. How does your plant compare in size, if you know, with Willard Sons & Bell?

A. It has practically the same capacity.

Q. How does your plant compare in size with the Howard Axle Works of the Carnegie Steel Company?

A. Their plant has a capacity of possibly ten per cent. more than we have, a slightly greater capacity than we have.

Q. How does the capacity of the Pollak Steel Company's plant compare with yours, if you know?

A. The Pollak Steel Company's plant has a capacity of about 80 per cent. of ours.

Q. How does the capacity of the Cambria Steel Company, that is, its axle department, compare with yours, if you know?

A. Their capacity, I should say, was about 33 1-3 per cent. of ours.

Q. I will ask you the same question as to the Pittsburgh Forge Company.

A. The Pittsburgh Forge would be about 33 1-3 per cent. of ours.

Q. I will ask you the same question as to the Illinois Steel Company, the Gary plant, which you say has recently gone into operation?

A. The Gary plant has a capacity at present of about 75 per cent. of our capacity.

Q. What is the nature of the competition, if any, between your company and the other manufacturers, and what has it been during the time you have been in business, as to being restrained by agreements on prices, or otherwise?

A. There has always been very sharp competition for rail-

road car axle business between ourselves and our various competitors that have been named, and so far as our company is concerned, we have always refrained from entering into any understanding as to prices on railroad car axles, and have acted independently by ourselves.

Q. Has the competition between the various concerns that you have mentioned been active, or has it been of a passive character?

A. It is extremely active, constantly so, and has been constantly active for the past ten years through the period the Standard Forgings Company has been doing business.

Q. Have you been familiar from time to time with the quotations made by various other concerns with whom you have been in competition on different orders?

A. We always try to get that information from our customers, wherever we can, so as to keep a general line on the market.

Q. They bid against you, do they, for orders?

A. All these various forging companies, companies operating forges, bid against us on practically every order that comes up, and as I say, we try to learn what our competitors are doing from our customers if we can.

Q. In cases of this competitive bidding are the contracts sometimes awarded to you and sometimes to other people?

A. Yes.

Q. You have mentioned, in answer to my question, the capacity of the various plants as near as you could get at them?

A. Yes.

Q. Has their percentage of distribution of their output been very different from their capacity, as far as you have observed it?

A. Well, all of these various forging companies operate to their full capacity when there is sufficient business to that end. If the buying of railroad freight cars is brisk so that there is a demand for car axles all over the country these companies could operate to their respective capacities.

Q. To whom do you sell your axles; do you sell to the railroads or to other parties?

A. Railroads and car builders.

Q. In the case of new equipment who buys the axles, the railroad or the car builder?

A. Generally the car builder.

Q. Then the axles you sell the railroads are mostly for repairs?

A. Except in certain instances where a railroad company has shop facilities for building new cars, in which case they would buy the axles for the cars they built at their own shops.

Q. When your company was incorporated ten years ago what was its capacity?

A. Our plant was originally built with a capacity of 100 tons of axles per day, and we now have a capacity of 400 tons per day.

Q. Do you use open hearth or Bessemer steel billets?

A. Open hearth.

Q. Where do you make your purchases of billets?

A. We have during the ten-year period purchased billets from the Illinois Steel Company, the Inland Steel Company, the Lackawanna Steel Company and the Portsmouth Steel Company, the Southern Steel Company and the Tennessee Coal, Iron & Railroad Company.

Q. How long ago did you first buy from the Tennessee Coal, Iron & Railroad Company?

A. About ten years ago.

Q. How did the billets which you have secured from them compare with the northern billets in quality?

A. The quality of the axle billets from the Tennessee has not been quite as good as those received from the Northern mills, where they had greater experience in making axle billets. Billets for railroad car wheels are usually a special quality of open hearth steel billets, and are not billets in the ordinary trade sense. Ordinarily, when billets are named, it is understood that they are billets for rerolling.

Q. Has the market for billets of the character which you use been a competitive market or otherwise?

A. It has been a competitive market.

Q. When you have been in the market for billets have you had bids or quotations made to you?

A. We have always had to get a price on our billets. Before placing orders we get our bids.

Q. That is, you get bids before you place your orders?

A. We get bids; yes.

Q. Have those bids, as you have received them, been usually uniform or varying?

A. The bids have always varied and——

Q. How big a spread has there been?

MR. COLTON: I do not think he has finished his answer.

MR. SEVERANCE: Pardon me.

THE WITNESS: I was going to possibly anticipate that by saying that the variation was as much as from 50 cents to \$7.00 per ton, depending on the condition of the steel market at the time the quotation was made.

By MR. SEVERANCE:

Q. \$7.00 a ton is a pretty big spread, is it not?

A. Yes.

Q. When was that?

A. We found such variations in the year 1907.

Q. Do you recall what the minimum and maximum price was when you found that much variation?

A. We were quoted in 1907 \$28 per ton by one concern, and \$35 per ton on the same quality of material by another concern.

MR. COLTON: Would you ask him if that was at the same time? I assume it was.

By MR. SEVERANCE:

Q. Was that at the same time?

A. Oh, yes; at the same time.

Q. That was on the same inquiry for bids, was it?

A. Yes.

Q. Was that at a time of great demand for billets?

A. It was; the most extraordinary demand that we have had for many years.

Q. Was the Illinois Steel Company one of the bidders at that time?

A. Yes, sir.

Q. Do you remember what its bid was?

A. Their bid was \$28.

Q. Since the time of the great boom in 1907, when you found this spread of \$7 a ton, what is the greatest spread you have known in the bids made to you? You said the minimum was 50 cents?

A. Yes, sir.

Q. Now, what would be the highest?

A. Well, in the early part of 1912 we had prices varying \$4 per ton.

Q. You spoke of having bought billets from Lackawanna. How did you move those to Chicago?

A. By boat, mainly. We have purchased several lots of billets from Lackawanna, and there was one order of about 5,000 tons that was moved from Buffalo by boat; there were two shiploads came in.

Q. Are these billets that are thus sold in the market a product that is used also by the various mills in their finishing plants, or are they manufactured solely for the market?

A. Well, nearly every concern manufacturing open hearth billets has plate mills or bar mills or structural mills, where that same billet could be rolled into some steel form and marketed as finished material, rather than sold as billets, and, in a sense, the billets that are marketed by such mills are their surplus tonnage over and above their own mill requirements.

Q. Then the amount that the various mills have to sell depends somewhat upon the needs of their own finishing mills?

A. Yes, sir.

Q. Do you buy your billets under contract or for periods of time, or do you buy definite tonnages, or how do you do it?

A. We make our purchases in a number of different ways. For example, we have frequently bought 10,000 tons at a time for delivery over a certain definite period of two or three months, and possibly other axle orders would come along within a few days after such 10,000 ton purchase was made, and another 10,000 ton purchase would be made, so that at times we have had as much as 75,000 tons purchased from

different mills coming to us, deliverable in the ensuing six or eight months.

Q. Now, when you have those contracts out at the same time, are they at the same or different prices?

A. Frequently there are a number of different prices applying on the different contracts, due to the market conditions when they were placed, although I have known the time when we have had as much as 50,000 tons all bought at the same price.

Q. From whom do you buy the largest share of your tonnage at the present time?

A. From the Illinois Steel Company.

Q. How near are they to you?

A. The Gary plant is about six miles, and the South Chicago plant about twelve or thirteen miles from our plant at Indiana Harbor.

Q. What concerns are there that solicit your business, other than the ones from whom you have bought—your billet business?

A. We have bought billets from nearly every concern that has solicited the business, I think. There have been one or two—there is a mill in Cleveland, owned by the Upson Nut Company, that has solicited billet business from us, and the La Belle Iron Works have solicited at times, and certain brokers in Pittsburgh, representing mills that I am not familiar with now, have offered us billets, and, in addition to those, we have bought from the concerns I have mentioned.

Q. What has been the character of the service you have received from the Illinois Steel Company?

A. Their service in respect to deliveries has been good, and in respect to the quality of material, it is excellent. At present, the percentage of billets we are obliged to reject for all causes is so small that we never consider it, it being possibly one-tenth or one-fifteenth of one per cent.

MR. SEVERANCE: I think that is all.

CROSS EXAMINATION

By MR. COLTON :

Q. Do you have any requirements for carbon and sulphur in connection with these billets?

A. Yes; our chemical requirements are governed by the Master Car Builders' specifications, which have been adopted by practically all the roads as standard, and those specifications limit the per cent. of carbon, phosphorus, sulphur and manganese.

Q. Would you give those percentages?

A. The carbon is .35 to .50 of one per cent., and the manganese, I think, is not over .60. They do not put a minimum on it, because it will generally run about .45 manganese, but we do specify against anything over .60, because it is too hard; and the sulphur and phosphorus are about .05. It is possible that the sulphur is allowed to run up to .06; I am not sure as to that, but it is generally below that in our steel.

Q. You say your sulphur can run to .05?

A. Yes, .05.

Q. It should not be over .05?

A. Not over .05.

Q. Do you ever specify under .05?

A. Well, we specify not over those percentages, and the average is somewhere in the neighborhood of .03.

Q. .03 is below the usual standard specification?

A. Yes; it is very good, you see.

Q. Yes.

A. Very low.

Q. Now, this is a special type of billets, as contrasted with the ordinary billets for re-rolling into other products, is it not?

A. Yes, sir.

Q. You are not familiar with the prices of billets for ordinary re-rolling?

A. We do not use those. We never buy them.

Q. You have never had any particular occasion to look into those prices?

A. No.

Q. And you do find this variation—the greatest variation that you have had in this special type of billets has been \$7 a ton, during your whole experience?

A. Yes, sir.

Q. And at other times on this special type of billets you have found variations of as much as \$4 a ton?

A. Yes, sir.

Q. Is that the next maximum?

A. Yes; I rather think it is.

Q. What would be the ordinary variation?

A. Oh, the ordinary variation would be 25 to 50 cents a ton; pretty close.

Q. When you say “25 to 50 cents a ton” are you there giving an instance where several bid; the minimum and the maximum—the range?

A. Yes, sir.

Q. I believe you stated you first purchased from the Tennessee Company three years ago?

A. Three years ago.

Q. How long has your company been in business?

A. Ten years.

Q. What quantity of axle billets did you place with the Tennessee Company three years ago?

A. It was two years. It was 1911 and 1912.

MR. SEVERANCE: It is not three years ago? Two years ago?

THE WITNESS: Yes; two years ago.

MR. SEVERANCE: I thought you said on direct examination three years ago.

THE WITNESS: Did I? It is a mistake then.

MR. COLTON: You may change it, if you want.

THE WITNESS: In 1911 and 1912 we bought about 20,000 tons from the Tennessee Coal, Iron & Railroad Company.

By MR. COLTON:

Q. Now, in 1911 to 1912 you bought that?

A. During those two years.

Q. During those two years?

A. Yes, sir.

Q. How was it distributed between those two years?

A. About half and half, I think.

Q. About half and half?

A. Yes, sir.

Q. Now, do your contracts with the Steel Corporation's subsidiaries have a provision that occurs in some of the Corporation's contracts that it may fulfill from any one of its mills?

A. Yes, I have noticed that, but I never paid any attention to it.

Q. It is in there, is it?

A. Yes, I think it is in there.

Q. It is one of the written provisions of the contract?

A. Yes; I think it is.

Q. Do you recall the price that you paid to the Tennessee Company for these billets?

A. There were several orders or contracts representing this total, and the billets ranged from about \$21 to about \$23 f. o. b. Birmingham.

Q. They quoted you f. o. b. Birmingham, did they?

A. Yes, and there was a freight of \$4.75 per ton to Chicago.

Q. That would cover the whole 20,000 tons?

A. Yes, sir.

Q. You do not know how long they have been quoting f. o. b. Birmingham—the Tennessee Company?

A. No, I do not know, but I know that we paid the freight on everything that came up, and that is our only experience with them.

Q. In 1911, what did you buy from the Illinois Steel Company—1911 and 1912; take the same two years?

A. 1911 and 1912?

Q. Yes; what tonnage from the Illinois Steel Company?

A. I think during that period we bought about 150,000 tons from the Illinois.

Q. And what was the range in prices there? Was that f. o. b. Chicago or f. o. b. Pittsburgh?

A. No; that is f. o. b. Indiana Harbor, our works. It is equivalent to f. o. b. Chicago.

Q. The price delivered at your works is exactly the same quotation as it would be f. o. b. Chicago?

A. Well, yes; it would be to anybody except the Illinois Steel Company. Any concern outside of the city; that is, to anybody in Pittsburgh or in Ohio or in Alabama, the freight rate to Indiana Harbor is the Chicago rate, so you might say delivered to us is f. o. b. Chicago. The Illinois Steel Company simply have to pay a switching charge to get over there.

Q. The Illinois Steel Company quoted you there; when they quoted you at your works, they quoted you the same price as if they had been quoting at their own works, f. o. b. Chicago, their own works?

A. I suppose so. It would only be ten or fifteen cents a ton involved, you see, in the switching charge. We buy everything from them delivered at our works.

Q. What did they sell that at?

A. What did they sell it at?

Q. Yes; that 150,000 tons, what was the range in prices? I suppose there were a number of different prices for that 150,000 tons?

A. Yes, there were. The prices ranged from \$20 to \$27.

Q. What tonnage did you get from the Illinois Steel Company in 1913?

A. Our purchases this year have been rather light, because the railroads have, most all of them, stopped buying cars. I think we have bought only about 25,000 tons so far this year.

Q. Have you bought any this year from the Tennessee?

A. No, sir.

Q. How much have you bought from companies other than the Illinois Company this year?

A. None.

Q. How much did you pay the Illinois Company this year?

A. We have several purchases.

Q. Just give the limits?

A. From \$27 down to about \$22 per ton.

Q. Now, in 1911 and 1912 did you buy any from the Carnegie Company?

A. No; we have never bought any billets from the Carnegie Company.

Q. You never have bought any axle billets from the Carnegie Company?

A. No.

Q. You say you never bought any axle billets; you never bought any billets?

A. We never bought any billets from the Carnegie Company.

Q. In the year 1913 your purchases in axle billets were confined to the Illinois Company; is that correct?

A. Yes.

Q. In 1912 what percentage of your billets came from the Illinois and the Tennessee companies?

A. Well, I cannot recollect just what tonnage was placed in 1911, or what was placed in 1912. During those two years we purchased approximately 150,000 tons from the Illinois and 20,000 tons from the Tennessee.

Q. How much outside?

A. Nothing outside.

Q. In 1910, or if you like you can group two years together, if you can do it better.

A. I can separate this thing better from the beginning than to go backwards.

Q. Beginning with the first year you went into business, tell me how much you bought from the subsidiaries of the Steel Corporation, whatever they may be, and how much you bought on the outside, as best you can.

A. Our first purchases were in 1904. The company was organized in 1903, and we built our plant that year, and completed it in the spring of 1904.

In 1904 our purchases were divided about equally between the Illinois and the Inland Steel Company.

Q. What did they amount to?

A. At that time, to only about 15,000 or 20,000 tons for that year. In 1905 the Illinois Steel Company got about 60 per cent. of our business, and the Inland, Southern, Portsmouth and perhaps some of these other concerns got the other 40 per cent. That year we bought about 40,000 tons.

In 1906 the same ratio applied, and our tonnage increased about 10,000 tons—about 50,000 tons that year.

Q. From whom did you say you bought during that year?

A. About 60 per cent. from the Illinois Steel Company and about 40 per cent. from the Inland and the Southern—all those other concerns.

Q. Whatever they may be for the different years.

A. Then in 1907 we got about 75 per cent. of our requirements from the Illinois Steel Company and 25 per cent. from outsiders, all others, including the Lackawanna. We purchased quite a tonnage from the Lackawanna in 1907.

Q. Did you state what your tonnage was in 1907?

A. No; I was just trying to remember. We purchased about 70,000 tons altogether that year. Now, since 1907 our purchases have been confined almost entirely to the Illinois Steel Company, with the exception of these 20,000 tons from the Tennessee.

Q. Well, now, from 1907 on?

A. In 1908 our tonnage was small, because the business was small; possibly 35,000 tons.

In 1909 the tonnage was up to about 70,000 tons, and in 1910 we bought nearly 100,000 tons. 1910 was the largest tonnage year that we have had.

Q. From 1907 on, from which time you dealt exclusively with some one of the subsidiaries of the United States Steel Corporation, did you ever have any contract running over a year?

MR. SEVERANCE: You mean covering a whole year?

MR. COLTON: Covering a whole year, or as long a time as a whole year.

THE WITNESS: No; I cannot say that we have had any as long as that.

By MR. COLTON:

Q. What is the contract calling for the largest amount of tonnage you ever placed with the Illinois Company since 1907?

MR. SEVERANCE: You mean the largest minimum tonnage?

MR. COLTON: Yes.

THE WITNESS: We have never bought at a single time more than 10,000 tons, but we have repeatedly bought 10,000 tons from them, so that at times they have had as much as 70,000 tons of material for us on their books.

By MR. COLTON:

Q. Since you began to deal practically exclusively with the Illinois Company, and as you say, with the Tennessee Company, with each one of these different orders have you taken up the question with all of these different concerns as to what they would bid on it?

A. No.

Q. You have gotten satisfied with the Illinois Company and you placed your order with the Illinois Company very often in respect to those; is that right?

A. I have not thought it necessary to go outside when I was thoroughly satisfied with their proposal as to price and delivery.

Q. And you could figure the market close enough on this thing to be satisfied without taking special bids? That is the way you felt about it?

A. Yes; there is a sort of general proportion between the price of axles, structurals and billets and so on, so that from experience I can pretty well know what I am doing on a thing.

Q. How did you get at the price on either the particular form of billets or axles or structurals, or whatever those were? How did you get at that price from which to figure down? Well, axles, I suppose, you fix your own price on axles, so that you knew the market price on axles?

A. I knew the market price on axles. That is our own business, and we tried to keep awake on that point.

Q. How about structurals and the other things that you spoke of? How did you get at the market price on those?

A. By asking any one of three or four car builders that we were selling axles to what they were paying for structurals.

Q. And you informed yourself in that way?

A. Yes.

Q. And you used that method in seeing that you got the market price with the Illinois Company, or a little better, if it would give you any better?

A. We did the best we could.

Q. And that applies since 1907 in general?

A. Yes; it does. The Illinois Company, of course, I suppose considers our business as worth something. It runs into quite a lot of money.

Q. I should think they would.

A. On the other hand, we have appreciated the stability of prices and the supply that we have been able to get there.

Q. You have sort of established mutual relations that are satisfactory to both of you?

A. Yes. We are using enough material so that we could really afford to make our open hearth steel if we had to.

Q. You spoke of the different percentages for these different works. You were just giving a rough estimate at that time?

A. Well, that is pretty close. I know what each one of those concerns can do. I have visited most of their plants.

Q. What is the total tonnage in axles sold annually? Suppose we take it by years, because it is different from year to year.

A. I do not know that I could give it to you by years, the total; but I should imagine that there were about 800,000 axles, or, in round figures, 300,000 tons, consumed per annum in the United States.

Q. And you think, on the average, there is about 300,000 tons of that class of product produced in the country?

A. Yes.

Q. Of course, the amount sold would run pretty close to that, if it is produced?

A. You see, I am assuming that on this basis; you run four axles to a car, and 200,000 freight cars would represent a little more than the average number of new ones that are built in this country every year. This year there will not be 100,000.

Q. When were you last at the Howard Axle Works of the Carnegie Steel Company?

A. It was about ten years ago.

Q. And you have not been there since?

A. I haven't been there since, no.

Q. So, whatever you knew about the size of that plant since ten years ago is based on something somebody else told you?

A. Well, they had that plant at that time right up to full capacity, and they could not have put in another hammer unless they made a radical increase in the plant. Now they have told me that their plant was about the same. I know they could not increase it from their method of manufacturing there; and the arrangement of the plant is such that they could not increase the capacity without adding an entire new unit to that plant; if they increased it at all, they would increase it 50 to 100 per cent., and they have not done that.

Q. And your reason for saying that they have not done that is that they told you that they did not?

A. I did not mean the Carnegie people have told me. I got that from some of our customers that buy from them occasionally.

Q. From people that have told you that?

A. People that have told me that.

Q. It is based on hearsay?

MR. SEVERANCE: There is no question about the fact.

THE WITNESS: There is no question about the fact. I will tell you how the plant is built, and prove the assertion.

By MR. COLTON:

Q. You saw it ten years ago?

A. Yes.

MR. COLTON: I object to this witness testifying in regard to that, on the ground that it is based on hearsay.

MR. SEVERANCE: Do you want us to go around and bring all these people here to show what their tonnage is?

MR. COLTON: No, but it is statistics you can get from Swank's. You put them in evidence, and we have put them in evidence.

By MR. COLTON :

Q. Have you been to the Pollak plant?

A. Yes, but I have not been there in three or four years.

Q. It is hearsay for the last three or four years?

A. Yes, but I will gamble on it.

Q. When were you at the Willard Sons?

A. I went by the Willard Sons' plant day before yesterday, coming to New York. Their building is right alongside of the railroad track.

Q. What is the size of their plant?

A. They have two forge shops, one parallel with the other, and each shop has, I think, eight steam hammers in it.

Q. What is a unit in this thing, a hammer?

A. Yes.

Q. You classify the tonnage by the number of hammers that they have got? Is that the way you fix it?

A. Generally.

Q. And each hammer turns out about the same amount, practically?

A. It is supposed to, yes.

Q. How about the Pittsburgh Forge Company?

A. I have never been to the Pittsburgh Forge Company. It is all hearsay about the Pittsburgh, although I have a pretty strong idea I am right.

MR. COLTON: I object to this witness' testimony in regard to the capacities of various plants, on the ground that it is based in whole or in part on hearsay.

REDIRECT EXAMINATION

By MR. SEVERANCE :

Q. Just one minute. You stated to counsel that for several years past you have been giving the bulk, or nearly all, of your business to the Illinois Steel Company.

MR. COLTON: I think he said exclusively.

By MR. SEVERANCE :

Q. Well, practically all, we will say, except what went to the Tennessee?

A. Yes.

Q. And that you have not felt it necessary to invite bids from all these other people?

A. No, sir.

Q. Have you, as a matter of fact, had quotations made to you showing these variations to which you testified on direct examination, ranging from 25 cents to 50 cents up to four dollars a ton?

A. Yes; many have been in the office representing other steel mills, and have offered us billets, and to my knowledge have sold billets to Willard Sons & Bell Company.

MR. COLTON: I object to this testimony on the ground that it is hearsay.

MR. SEVERANCE: What is that?

THE WITNESS: Well, I say this may be considered hearsay, because I have not seen the billets in the plant, and I have not seen the contracts, but they claim, these Pittsburgh people—they offered me billets last winter, or a year ago—that they had sold billets to our competitors in South Chicago and told us what their prices were.

By MR. SEVERANCE:

Q. I care nothing about that; what I want to know is whether other mills, or representatives of other mills, have been to you and made these varying quotations during this period, when you have felt it to your advantage to buy from the Illinois?

A. Yes.

RECROSS EXAMINATION

By MR. COLTON:

Q. How did you happen to purchase from the Tennessee Company?

A. The reason for that was this: We had figured on getting a lot of open hearth billets from the Gary plant of the Illinois Steel Company, and their furnaces fell down there and they did not produce the tonnage that they anticipated, and we found that we could get some steel from the Tennessee, and we bought it so as to have a sufficient supply of steel

coming in at that time, because the Gary plant was not producing as rapidly as they anticipated.

Q. And you considered that steel as satisfactory as any of the independent companies, didn't you?

A. Oh, yes.

Q. It was good steel?

A. Yes; it was a very small percentage, and we were accustomed to get very good steel from the Illinois.

Q. They have been making this character of steel for a good many years?

A. The Tennessee?

Q. No; I had not finished my question. The Illinois has been making it for a good many years, and that is a factor in getting the class of steel that you wanted?

A. Yes.

Q. And the Tennessee Company was new at the business, and that might account for whatever little deviation there was in the grade of its billets?

A. Yes.

By MR. SEVERANCE:

Q. Did the Tennessee billets cost you any more than the ones you bought from the Illinois, laid down at your works?

A. Yes; it cost us about 25 cents a ton more; that is, a portion of them did; about one-third of them, as near as I can recollect now, cost us about 75 cents a ton more; and the balance, I think, were just about the same price delivered.

By MR. COLTON:

Q. During these last years that you have been dealing practically exclusively with the Illinois Company, you have not, with the outsiders, kept especially in touch with their prices, have you? I mean, outsiders other than the United States Steel Corporation.

A. Why, I have at times gotten some pretty definite quotations from them. Two years ago we had some negotiations on with the Lackawanna, for example, for quite a round tonnage of steel.

Q. Those have been at rather infrequent periods?

A. No regular periods; infrequent periods. Our billet

purchases have not been made at any regular stated periods. We are likely to buy a large quantity one month and then skip several months before buying any more.

Q. Do you remember any instance in which you had up any special tonnage with four or five companies outside of the United States Steel Corporation since 1907?

A. No; I have never brought as many as four or five into the matter at any time, whenever I was buying billets. I would be satisfied with the prices from two or three, at the outside, and since 1907, or during the past two or three years, we have frequently had prices from the Lackawanna and the Inland, and so forth.

Q. In 1907 with what different companies did you take up the purchase of any given tonnage of axle billets at a given time?

A. In the fall of 1907 I took up the purchase of 5,000 tons of billets with the Lackawanna Steel Company, and bought them.

Q. What did you buy them at?

A. \$33, delivered at Indiana Harbor.

Q. That was the only company that you took it up with at the time?

A. No; I had a price from Inland at \$35.

Q. You had a price——

A. From the Inland Steel Company, at \$35.

Q. Was their product not satisfactory to you?

A. Their product was all right, but their price was too high.

Q. Did you take it up with anybody else?

A. And we were buying billets at that time from the Illinois Steel Company at \$28 to the extent of, I think it was, 3,000 tons a month, which was all of the free steel that they had at that time.

Q. Well, you did not offer to place that order with the Illinois Steel Company, and get a special bid?

A. We were buying from the Illinois Steel Company all of the steel that they had to spare over and above their requirements for their own mills at \$28.

Q. That was 1907?

A. Yes, 1907.

Q. When did you next get any bids from outsiders?

A. I should say it was about 1909.

Q. That you next did it?

A. Yes.

Q. And what different companies did you take it up with?

A. We purchased from Illinois during that year practically all our requirements, but we had bids at times from Inland, and also from the Lackawanna Steel Company.

Q. Now, I want a bid on a definite amount of tonnage that you took up with more than just one company outside of Illinois, if there were any such instances.

A. I could not give you that information from recollection.

Q. Do you recall that there were any such instances as that in 1909?

A. Do you mean where we had——

Q. Where you had an amount of tonnage that you wanted on the outside, and took up the question of placing that tonnage with two or more mills on the outside of the Corporation?

A. No; I think that the Illinois Steel Company were supplying us with all that we needed at that time.

MR. SEVERANCE: You do not want to leave it that way, do you?

MR. COLTON: I think that is an answer to my question.

MR. SEVERANCE: The other people, though, made him quotations.

MR. COLTON: He said that one mill at a time made him quotations, as I understood it, but that he did not take up any specific order for axle billets with more than one mill on the outside.

By MR. COLTON:

Q. Did you not say that?

A. Well, I think I said the Illinois Steel Company was supplying us with all our needs in 1909.

Q. Yes.

A. And that I could not say from recollection as to any definite instance where we took up a specific tonnage and got quotations on it from two or three outside mills. I could not give you any definite instance of that sort, but we had prices during that period from these other mills, whose names have been frequently mentioned, and who have been constantly quoting us from time to time.

Q. Now, during 1909 did you take up, whether you can name the specific time at which you took it up—did you take up with outside mills, two or more of them, any specific order for tonnage of steel?

MR. SEVERANCE: I object to that as already answered over and over again.

MR. COLTON: I do not think so, Mr. Severance. Will you read the question to the witness?

MR. SEVERANCE: He has heard it. He has just answered it.

MR. COLTON: I think you are talking too much to the witness. I think we would get along faster—

MR. SEVERANCE: I think we would get along faster if you did not ask the same question over and over again.

MR. COLTON: Read the question.

(The question was read by the stenographer.)

THE WITNESS: Yes.

By MR. COLTON:

Q. Now, with what mills did you take it up?

A. I understand there have been practically the same mills in the field, selling open hearth steel, during all this ten year period. That is, the Lackawanna, the Inland, and these Ohio mills, the Southern Steel Company, and so forth, and their representatives run in to see us, or they write us letters, every once in a while, soliciting business or making us quotations, or if they do not include a quotation in their letter soliciting business, we may write them to sound the market and see what they would say.

MR. COLTON: Now, will you read him the question again? I do not think you understood it. I am not asking you on the general line of bids, and if you will note the question carefully and address your mind to it—

THE WITNESS: If you will please read the question?
(The question was again read by the stenographer.)

THE WITNESS: My answer to that was "yes," that we had.

By MR. COLTON:

Q. Now, what quantity of steel was involved in any transaction in which you took up with mills outside of the United States Steel Corporation the question of placing your order with them, and what were the bidders?

A. I can not give you definite information as to that. I do not recollect exactly. I know we have frequently done it; frequently did so in 1909.

Q. Do you now, as a matter of recollection, state that you took up as to a specific quantity of steel—

A. Oh, yes; the question of quantity is always involved. We might, for example, ask a mill for a price on 1,000 tons, to see what their ideas of the market were.

Q. At any one time during the year 1909 to how many mills did you submit a proposition to place an order for steel, and ask for quotations by them?

A. We never did that.

Q. You did not do that at all?

A. No.

Q. Now, is not this—

A. We do not submit propositions to place an order. We might ask them for a price on a definite quantity, but we would not consider that we were in any way obligated to place any tonnage with any one of them.

Q. Now, at any given time during the year 1909, state with what different mills you took up the question of placing a specific amount of tonnage, if you now recall, giving all the different mills with which you took the question up at the particular time.

A. I could not recall any definite circumstance of that kind.

Q. Did you at any time, during the year 1910, take up with two or more mills outside of the United States Steel Corporation the question of placing tonnage?

A. In 1910?

Q. Yes.

A. I think we did, on one or two occasions, take up the matter of placing tonnage with Inland and Lackawanna.

Q. Taking them both up together, with respect to the same quantity of steel?

A. Yes, sir; at the same time.

Q. Do you now recall what their bids were?

A. No; I could not.

Q. Did you ask the Illinois Steel Company to bid at the same time?

A. Oh, yes; we had their prices.

Q. The question is not whether you had their prices, but whether you asked them to bid on the same quantity?

A. Yes.

Q. Now, do you recall what the Illinois Steel Company bid on that quantity of steel that you took up with the Inland and Lackawanna?

A. My recollection is that their price was lower than—considerably lower than either one of the other mills.

Q. Do you recall that they bid on that same quantity of steel?

A. Yes, we naturally would have them; we naturally would get a quotation from the Illinois at the same time we did from the other concerns, so as to have the prices all bear on the thing equally.

Q. You say “naturally,” Mr. Van Hagen, but I am asking you for your recollection in regard to that particular transaction, if you have any.

A. Yes, sir.

Q. All right. Now, what is the next case in which you took up with two or more mills on the outside the question of placing an order with them for a quantity of steel?

A. I do not think there has been any such case since 1910. 1910 was the last year.

MR. COLTON: That is all.

By MR. SEVERANCE:

Q. And your knowledge of the varying quotations since 1910 has been in the way of receiving bids, as you stated, from the different mills in the general solicitation of business?

MR. COLTON: May I suggest that he also gave another method of getting in line with the market, aside from the one that you have just stated to him?

MR. SEVERANCE: What was that?

MR. COLTON: I think your question will lead him to make an answer different from the other.

MR. SEVERANCE: What was it he stated?

MR. COLTON: He stated he got a line on the cost of structural material, and the selling price of axles and various other products, and in that way figured out that he was getting the right price from Illinois.

MR. SEVERANCE: That is not what I am asking about at all. I am not asking about his knowledge of price. I am asking about his knowledge of varying quotations.

MR. COLTON: I beg your pardon.

MR. SEVERANCE: I am asking him if he got his knowledge as to varying quotations made since 1910 by these letters and calls from soliciting agents, as he has previously stated.

THE WITNESS: Yes.

MR. SEVERANCE: That is all.

MR. COLTON: That is all.

MR. SEVERANCE: Mr. De Coningh.

FREDERICK DE CONINGH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. De Coningh, where do you live?

A. Chicago.

Q. What is your business?

A. I am the president of the Sykes Company.

Q. What is the business of the Sykes Company?

A. They are sheet metal contractors.

Q. What kind of sheet metal work do you make?

A. Principally fireproof windows, made of hollow metal formed up from sheet iron.

MR. DICKINSON: Sheet iron?

THE WITNESS: When I say "iron," that is the commercial word. Sheet steel.

By MR. SEVERANCE:

Q. And you make that from what class of sheet steel?

A. Galvanized open hearth steel sheets.

Q. How long have you been in that business?

A. Since 1893.

Q. Now, during the last twelve years, from what companies have you purchased your requirements of sheet steel? I am speaking now of the ordinary run of galvanized sheet steel; not certain specialties that I will ask you about hereafter.

A. We have bought sheets from the American Sheet & Tin Plate Company, principally; from the Parkersburg Iron & Steel Company, Parkersburg, West Virginia; American Rolling Mill Company, Middletown, Ohio; Thomas Steel Company, Niles, Ohio; Brier Hill Steel Company, Youngstown, Ohio; Zug Iron & Steel Company, Pittsburgh, Pennsylvania; Niles Iron & Sheet Company, Niles, Ohio.

Q. During the last twelve years, have you had prices quoted to you by different mills from time to time when you were in the market for sheets?

A. We have had such quotations, and we have had unsolicited quotations.

Q. That is, you have had them when you have asked for them, and they have also come and quoted you when you have not asked for them?

A. Yes. Of course, if a sales agent comes to the office with a view of soliciting business, the most natural thing in the world is to ask him what his price is. That does not necessarily indicate that we are desirous of buying; simply for our general information, to keep posted on what is going on in the market.

Q. Now, during that period of time what has been your experience as to whether the various companies that you have named have quoted the same or varying prices at the same time, either when you were in the market asking for quotations or when they volunteered quotations?

A. There has been at all times a discrepancy in prices.

Q. By "discrepancy," you mean varying prices?

A. Varying prices. That is, I mean to say that at no time did we receive from all those giving us quotations the same price.

Q. Now, outside of this matter of ordinary sheet steel, what other classes, if any, of sheet steel do you use?

A. We bid on contracts to supply material. The specifications for these bids are prepared by architects and engineers and different authorities, and sometimes these specifications demand that we supply an article made of a certain brand of sheets. If we are successful in securing that contract, it is necessary for us, in order to comply with the specifications, to buy that kind of material.

Q. Now, will you describe some of this special kind of material in the way of sheets that you have to buy, and about how it ranges in price with the ordinary sheets, and who makes it?

A. The principal special brand of sheet iron in the market is called "ingot iron," and is made only by the American Rolling Mill Company of Canton, Ohio. Then there is a brand known as the "Toncan," which is made by the Stark Rolling Mill Company of Canton, Ohio; and, by the way, I should have added that company in my previous list of people that we have bought from.

Then the Inland Steel Company, of Indiana Harbor, makes a special brand called "Vismera," and the American Sheet & Tin Plate Company makes a special brand known as the "Keystone" brand.

Q. What is the particular virtue claimed for these special brands over the ordinary sheets?

A. They are all claimed to be rust-resisting. The great trouble with galvanized, or any other kind of sheet iron which is subjected to atmospheric conditions, is that it will corrode,

and the sheet which is supposed to be rust-resisting is a necessary article that a great many people are very anxious to obtain.

MR. DICKINSON: I object to all this proof about these special things as irrelevant.

MR. SEVERANCE: I think they are relevant; of course I want to get it.

By MR. SEVERANCE:

Q. How much more, ordinarily, does the American Rolling Mill Company charge for this "ingot iron" than it does for the ordinary sheets it sells?

A. From \$20 to \$28 a ton additional.

Q. Is that "ingot iron" much used?

A. It is quite extensively used at the present time.

Q. By what class of customers?

A. The large users; and especially is it now in demand by railroad companies. There are certain railroad systems that will not use anything else in their buildings or in any sheet metal that they require, but "ingot iron."

Q. What roads can you mention that you know?

A. The B. & O., the Big Four, and the Lake Shore & Michigan Southern are three that I can remember just now who will not use any other sheet iron but "ingot iron" made by the American Rolling Mill Company.

Q. Do you do work for these different railroads?

A. We have done work. We bid on their requirements, and if we are successful in obtaining the contract, we have to furnish the material in accordance with the specifications.

Q. How much does the Stark Company get for its "Ton-can" sheets, over and above what it costs for the ordinary sheets?

A. It is some years ago since we made the last purchase of that class of sheets from the Stark Company; but if my memory serves me right, it was about \$20 advance.

Q. I will ask you the same question as to the "Vismera" brand of the Inland Steel Company.

A. We never bought any.

Q. I will ask you the same question as to the "Keystone," of the American Sheet & Tin Plate Company.

A. They have a regular advance of \$3 a ton over and above the price of their ordinary product.

Q. Are these special brands or special analyses of sheets, whatever they are, used for the same purposes for which ordinary sheets are used by other consumers?

A. Yes.

MR. SEVERANCE: You may examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You stated that when you got quotations for proposed purchases, at no time did you receive from all of the bidders the same price. Now, you are speaking of the period over ten to twelve years, are you?

A. I can say that for the past ten years, yes.

Q. That at no time in the past ten years have the prices from all bidders been the same; do you state that?

A. Yes.

Q. And you know that to be a fact?

A. Yes.

Q. Don't you know it also to be the fact that frequently during that time the prices of a number of the bidders would be the same?

A. Yes.

WILLIAM B. MELISH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. In the City of Cincinnati.

Q. What is your business?

A. I am the president of the Bromwell Brush & Wire Goods Company.

Q. Is that a manufacturing company?

A. Manufacturers of brushes and wire goods.

Q. What lines of wire goods does it manufacture?

A. We manufacture wire cloth of different kinds, principally wire window screen cloth, such as is used for keeping out flies; we also manufacture large quantities of domestic articles, of wire goods, rat traps, fly traps, corn poppers, dish covers, sieves, grain riddles, and many other articles that are used in the family and on the farm, etc.

Q. How many factories have you?

A. We have seven, one at Cincinnati, one at Columbus, Ohio, one at Dayton, Ohio, one at Greensburg, Indiana, one at Trenton, New Jersey, one at Baltimore, Maryland, and one at Cedar Key, Florida.

Q. When was your business established?

A. The wire goods business was established in 1819; the brush business in 1866.

Q. By whom was the wire business established?

A. By Jacob Bromwell, who was my great grandfather.

Q. And has it been maintained——

A. The business has been in the same family, father and son, during all these years, the same name, Bromwell, being on the signboard during the ninety-three years.

Q. You are the fourth of the name who has conducted it?

A. My middle name is Bromwell. I am the fourth generation.

Q. Is your business large, as compared with other manufacturers in your lines?

A. In the most of the wire goods articles that I have named we are probably the largest in the country. In brushes we are the largest manufacturers of certain kinds of brushes.

Q. Are you the largest in the world in any lines you manufacture?

A. In such domestic goods as sieves and flour sifters, in fly traps, corn poppers and rat traps, we make more than any other one house in the world.

Q. What steel products do you use in your manufacture?

A. We use large quantities of wire in the manufacture of these different wire goods. We use large quantities.

MR. DICKINSON: You are speaking of steel wire now, are you?

THE WITNESS: Steel wire, yes, sir; and large quantities of tin plates, and comparatively large quantities of light steel plates.

By MR. LINDABURY:

Q. That is, tin plates and light steel plates. Is there any difference except one is tinned and the other is not?

A. No, sir.

Q. Both are steel plates, one being tinned?

A. Both are steel plates, but I mean what we call black plates.

Q. Bright tin and black plates?

A. Yes, sir.

Q. Which of these do you use the most of?

A. Wire.

Q. What percentage of your purchases are of wire, roughly?

MR. DICKINSON: You mean in that class of things? You do not mean all his purchases, of everything?

By MR. LINDABURY:

Q. What percentage of your purchase of steel products is of wire?

A. Probably 60 per cent.

Q. What percentage is of tin plates?

A. 35 per cent.; and 5 per cent. of the steel plates, but untinned.

Q. Black plates?

A. Black plates.

Q. Now, do you buy your wire on a competitive basis?

A. Yes, sir; we buy of the largest manufacturers in the country, and we buy from eight to ten manufacturers in wire.

Q. Do you ordinarily obtain quotations on your proposed purchases?

A. Yes; they come to us with quotations because we are recognized as buyers, and as buying regularly, and then, twice to three times a year we purchase largely for what we call the season's wants, and contract for three months or four months or six months, for our wants, and when we are doing that we make an estimate of our wants, and then ask every manufacturer of any size of wire to make a bid on our wants.

Q. About how many manufacturers are there of wire goods from whom you invite those bids?

A. We invite about eight.

Q. How long have you been doing that? For some years?

A. Oh, yes; for a good many years; ten or fifteen years. Of course, that is to say, we have been doing that for many years, as far as getting bids is concerned. We are open to prices all the time. Every week there are men in trying to sell us wire.

Q. In getting in these quotations have you found them to be alike or variant?

A. Oh, they vary; sometimes they vary quite materially.

Q. And are there occasions when two or more of them are the same?

A. Oh, yes. We never know what they are going to be, of course. It depends upon the condition of the market and it depends upon the amount of orders that a mill has.

There is not a very great difference, because I presume they all know about what the market prices are, but there is always a difference.

Q. As a rule, do you find a majority of the bids received at a given time variant?

A. Yes; we regard the market as an open one, and we expect to have a difference in prices.

Q. And is that expectation realized in your practice?

A. Yes, sir. We always receive bids of different prices under different conditions.

Q. Have you, within the last ten years, seen any indication of price agreements or price fixing between the different manufacturers of these wire products?

A. We have no knowledge of any trade agreements or

arbitrary fixing of prices on the part of the manufacturers of any of these goods.

Q. That does not quite answer the question, which was as to whether or not there were any indications of such a state observed by you in the course of your trading?

A. I should say not.

Q. Has or not there been competition during the whole period of ten years last past between the manufacturers of wire products for your trade?

A. Yes, sir; there has been with our wants and our purchases.

Q. Of course that is all you know about?

A. Yes.

Q. Has that been active or dormant and sluggish?

A. It has depended somewhat on the seasons and the conditions of trade; but I regard it that there has always been an active competition.

Q. Are there times when the prices vary more widely than others?

A. There may be a smaller demand, and there may be a condition of trade where trade is more stagnant, and then the competition would be greater.

Q. When is the competition the least?

A. When everything is prosperous and there is a great demand, and the mills are full of orders. They will make no cut in price then, and when they cannot make quick deliveries prices are more stagnant, as you might call it.

Q. Do you observe the trade paper quotations? Do you notice them?

A. No, sir; we pay no attention to those.

Q. Why not?

A. Because when we are in the market we are seeking quotations from all of the manufacturers, and when we have bought, we have bought, and we do not watch the papers to know whether things are up or down, when we are not in the market.

Q. Is it your practice to negotiate with some or all of the bidders after you receive quotations, to get a better price?

A. Yes; after we have received quotations we try to

secure a better bargain, before we close the contract, especially if it is a contract for our wants and deliveries for four or six months.

Q. And are you generally able to succeed in getting a better price?

A. Sometimes; and sometimes we are not; but we always work the thing out until we are satisfied that we have got the lowest proposition in the market.

Q. You are able to succeed often enough to make it worth while to keep it up?

A. Yes, sir; we keep it up all the time, because we believe we can do better in that way.

Q. I want to go very rapidly over the rest of this. Do you buy your plate, black and tinned, in the same way that you do your wire?

A. Yes, sir; by securing bids and then by bargaining for the best prices and conditions of the market.

Q. From about how many manufacturers do you get quotations on your plates?

A. From six to eight.

Q. And is there or not about the same variation in their quotations as in the quotations of the wire makers?

A. Yes, sir; I think there is fully as much.

Q. And would your answer in regard to competition in wire apply with regard to competition in these plates?

A. Yes, sir; and still more competition in the matter of plates; that is what I mean, the black plates.

Q. Why do you say still more competition? That is, in what respect?

A. I think we get a greater variation in prices.

Q. You mean the prices or in the quotations of prices?

A. The quotations.

Q. Do prices change oftener, or not?

A. Yes; they do.

Q. In other words, are market conditions less stable in those products than they are in wire?

A. They seem so to me. We do not buy so much in that line, but we have bought, seemingly, of more people. That

is, there is more competition, more people after the small amount.

Q. That reminds me; I think I had not asked you how much of your wire you buy from the American Steel & Wire Company.

A. We buy about 60 per cent. from the American Steel & Wire Company.

Q. From how many concerns do you buy the balance of the wire?

A. From four.

Q. Name them, will you, please?

A. We buy of the Cambria Steel Company, the Indiana Steel & Wire Company, the Spencer Wire Company, the Seneca Wire Company, the Shenandoah Steel & Wire Company. Those are the people that occur to me.

Q. Upon what basis have you awarded your business?

A. They get the other 40 per cent.

Q. Yes; but upon what basis, I say?

A. Always because their prices were lower; and where they were able to make certain kinds of wire and make as good wire as the American Steel & Wire Company.

Q. Do those who quote the lowest price on one occasion continue to do so ordinarily?

A. Yes; they are always bidders for the business.

Q. I do not think you understood that question.

(By request, the stenographer repeated the question referred to as follows:)

“Q. Do those who quote the lowest price on one occasion continue to do so ordinarily?”

A. No. I thought you meant did they continue to quote.

Q. I thought you did not understand.

A. No. They may not be the lowest bidders, but they continue to solicit business. I thought what you meant was if, having not got the order, they still continued to quote.

Q. Does the one who happens to be the highest on a particular occasion, and who lost on that account, continue to quote?

A. Yes, sir.

Q. Does he generally continue to be the highest?

A. No; we consider it an open market. If he is the highest at one time, he is likely to be the lowest the next time.

Q. So the wheel turns, and he gets his share?

A. He gets his share—if his prices are right.

Q. You gave the percentage of wire; what percentage of plates do you buy from the American Sheet & Tin Plate Company? I suppose you get that from them?

A. Yes; from the American Sheet & Tin Plate Company we buy about 65 per cent. of our wants.

Q. And the rest you get where?

A. From different plate mills. In the case of the black plates, we do not buy anything of the American Sheet & Tin Plate Company. That is, we have not, during the last four or five years. We have always been able to buy cheaper plates, and good plates, of other concerns.

Q. Then what percentage of your tin plate have you bought from them?

A. I have already answered that.

Q. No; my question embraced both; maybe you did not mean to answer as to both.

A. Of the tin plates we buy 60 to 65 per cent. of the American Sheet & Tin Plate Company.

Q. And the balance you get from how many other concerns?

A. Four or five.

CROSS EXAMINATION

By MR. DICKINSON:

Q. How long have you been getting 60 to 65 per cent. of your tin plate from the American Sheet & Tin Plate Company?

A. Five or six or seven years.

Q. How long have you been getting 60 per cent. of your wire from the American Steel & Wire Company?

A. The same length of time.

Q. What sizes are these wires that you use?

A. We use some of all sizes, from No. 9 up to No. 34, but the most of our purchases are of the finer wires, from No. 22 to 34, used in weaving different kinds of wire cloth.

Q. All these numbers from 22 to 34 are standard wire, are they?

A. Yes, sir.

Q. Such as quoted in the trade papers?

A. I presume so.

Q. You do not know about that?

A. I do not pay much attention to the trade papers. I think the trade papers quote from numbers to numbers, like 9 to 16, 16 to 24, 24 to 34.

Q. But you do not know whether wire numbered 22 to 34 was quoted regularly in the trade papers?

A. No, sir; I do not pay any attention to what appears in them.

Q. You do not?

A. No.

Q. How much black plate did you purchase in 1913?

A. In tons?

Q. Yes.

A. I don't know about that, because my memorandum covers a four-year period.

Q. I am not speaking, now, of any memorandum, but I just want to get what you carry in your mind?

A. I do not know. I could not tell by tons. There are so many little purchases, you know, and that is not a big item.

Q. Is it a small item?

A. It is a very small item.

Q. Is it smaller as the years go back? Just answer from what you know, not from any memorandum.

A. It is a small item.

Q. And it decreases as you go back?

A. No; it would not decrease. We have been using for four or five years the same tonnage per year.

Q. You have not increased your business, then, in that four or five years?

A. Well, no.

Q. How about your other wire? Has your business in it increased?

A. There has been an increase in the wire that is used in the manufacture of wire goods.

Q. All the other wire?

A. All the other wire. There has been an increase in all the other wires.

Q. And how about bright tin plate?

A. There has been an increase in that.

Q. Because, I suppose, you use a good deal of that in conjunction with the things you make out of wire, like covers to corn poppers—they are of bright tin plate?

A. Yes; and sifters, rotary flour sifters, which we make large quantities of.

Q. Take the year 1913: were any of your purchases in tin plate covered by contract, or were they just purchased——

A. We had a contract in the early part of the year 1913.

Q. With what company was that?

A. That was with the American Sheet & Tin Plate Company.

Q. How many boxes of tin plate was that?

A. About 1,000 boxes.

Q. What other contracts have you made in 1913 for tin plate?

A. We have bought from two or three parties outside, but in quantities not to exceed a total of, say, 500 boxes.

Q. Then you have only had one contract?

A. Yes; that was a contract that ran four months, that covered the heavy uses of the year.

Q. But I mean to say that, so far as your requirements for 1913 have been supplied you have only had one written contract?

A. Yes, sir.

Q. The balance were occasional purchases?

A. Yes, sir.

Q. How many of these occasional purchases have you made in tin plate?

A. Three or four.

Q. Do you know the times of the year that you made them, and the quantities in which you made them, and from whom you got them?

A. I do not know my exact dates. We had a contract that ran the first four months, that brought us up to about May;

and since then I think we have only bought small lots that have run us until September.

Q. Do you know from whom you bought?

A. Yes.

Q. State from whom you bought, without looking at any memorandum.

A. We bought some plates of the N. & G. Taylor Company, and we have bought of one or two other concerns, I do not just remember which ones.

Q. Then the N. & G. Taylor Company is the only one you can remember from whom you have bought?

A. The only one I can remember positively about now. We had quite a big stock this spring; in fact, we carried over a lot. I do not remember all the exact dates, nor the names of the other parties.

Q. Do you know the time of the year when you made this purchase from the N. & G. Taylor Company?

A. I think it was May or June.

Q. Do you know the price you paid them?

A. No, sir; I do not.

Q. Did you negotiate that purchase, or was that done by some of your purchasing agents?

A. No; I did not make the purchase personally. It went through my desk. But it was small. I do not recollect the exact details of it.

Q. Do you know, for instance, who else quoted at that time, when you made this purchase?

A. No, sir; I do not.

Q. Do you know what the quotations were?

A. I think it was some special thing that was bought probably on their quotation, on their price.

Q. But I suppose you do that pretty often, do you not, where some manufacturer makes a proposition that seems to you to be right; you buy, without taking any quotations, do you not, on such occasions?

A. Yes, sir; we are in the open market all the time.

Q. And if somebody comes and makes a price that is satisfactory to you, you sometimes close without taking any other quotations?

A. Yes, sir.

Q. Take the year 1912; do you remember how many times you purchased in the open market tin plate or wire products which were not covered by contract?

A. No, sir; I do not.

Q. You must have had a number of transactions of that kind, in a business of the size of yours, have you not?

A. I presume there were, but I do not recall them now.

Q. Nor do you recall who made quotations on any of those, do you?

A. No; I do not. I could not tell you any exact names of parties or price. I have thousands of details and questions, and I cannot possibly remember them all. Everything goes through my office, but our factory superintendents and foremen ascertain our wants, and then I have a son who runs the factories, as far as the manufacturing is concerned, and if I am not at home, he would buy.

Q. And there is a great deal, I should imagine, of detail, in a large business of this sort?

A. Yes, sir.

Q. It is a sort of brain-racking business?

A. Yes, sir.

Q. You have to dismiss a great deal of that from your memory?

A. Yes, sir; that is, it does not stick there; and I have been very busy in other matters, too.

Q. Surely. Take this period, say, of ten or twelve years: can you give any estimate for any one of those years of the number of transactions in which you bought tin or wire on occasions where you made purchases not covered by contracts?

A. Oh, yes; and there are a great many of them.

Q. There are a great many of those transactions?

A. A great many of those during the term of years.

Q. And a great many of them during each year?

A. Yes.

Q. Could you give the proportion in any one year, or approximately the proportion, how much of your requirements were covered in that way?

A. I could not with any certainty, except just along the lines I have stated, that about 60 per cent. of our purchases are from the American Steel & Wire Company.

Q. Was that always under contract?

A. Usually under contract; yes, sir.

Q. Some of it was not under contract?

A. Not from them. We make contracts with them for about three or four months. While they do not cover everything, the contracts are for a certain number of tons, to be taken out as wanted, and we specify as our wants may come along. If somebody comes along in the meantime and makes a price that is better, as frequently happens, we will give them an order for a certain amount of tons or a carload.

Q. That is to say, you give the person who makes this price such an order?

A. Yes, sir.

Q. And you do it if the price is satisfactory?

A. Yes.

Q. As to that particular transaction you would not look beyond that price, would you?

A. I would not look beyond that price, no, if we knew it was low, and was lower than our contract price. You see we do not contract for the full amount of our tonnage. We leave a lee-way. We are free to buy where we please; but we have to take a certain amount. If we are contracting for 100 or 150 or 200 tons, we take that; but that would not be our entire wants.

Q. You have contracts running over periods of something like four months?

A. Yes.

Q. Some time during that period, before that contract would have expired, somebody may come along and offer you something at a price which strikes you as favorable, and you may purchase?

A. Yes, sir.

Q. And that would be at a different time, of course, from the time when you made the written contract?

A. Yes.

Q. That is the case?

A. Yes, sir.

Q. Your dealings with the American Steel & Wire Company, doubtless, have been very satisfactory, because you have continued them for a long time?

A. Yes, sir.

Q. Running over a period of how many years?

A. It has been running over a period ever since they were organized.

Q. Take any one of these years, we will say 1907. You made a contract doubtless in 1907 for a large part of your estimated requirements for 1908, did you not, with the American Steel & Wire Company?

A. Yes; we would contract toward the end of the year for four or six months' wants for the beginning of the next year.

Q. When you made a contract for 1908 with the American Steel & Wire Company, or were negotiating for that contract, do you remember whether you renewed a previous contract upon the same price, being a satisfactory price, or not? or how would that be?

A. No, sir; we would not make a contract in any year with the American Steel & Wire Company or anybody else until we had taken their figures and had then gone to all other parties of any size making the same goods and ascertained whether we could do better or not.

Q. You found out that you did not do better, did you not? Because you continued to make these contracts.

A. Frequently we have done better. Frequently we have made the American Steel & Wire Company make a lower price.

Q. That is to say, you would find out somebody that would give you a lower price, and you would tell the American Steel & Wire Company about that, and they would meet that price?

A. We would not tell them about the price. We would treat them all absolutely alike. We would tell them what we wanted, and we would say: "What have you got to offer in the way of prices?" And we would tell them: "You can all bid on this and we will not give away any prices. It is an open thing for you to bid on." Now, if we received these

bids and bids are coming in and prices are coming in, and the American Steel & Wire Company would say: "Are you going to give us that contract?" We would say to them, if we had a lower price, "No. We can do better." And they might change the price. If they were then the lowest, or if they were the same, and we had to have their goods, or if we considered their goods to be the best, then we would contract with them.

Q. But it so came about that during this whole period you did contract with them for fully 60 per cent. of your requirements in wire?

A. Yes; because they are by far the largest manufacturers, and can always give us the best deliveries, and what they contract to do in the way of making deliveries they can and will do; and you cannot always get that from the independents, or outside chaps.

Q. In awarding the contracts to them, was that determined by those considerations, or by the fact that their price was the lowest?

A. Not always. If the price was the same I would give the preference to the largest manufacturer, or the manufacturer who made the goods we were most accustomed to, and knew the quality of.

Q. And you have given it to them when the price may have been somewhat higher, looking to their ability to manufacture and deliver?

A. No, sir; I do not think we have bought anything at any price that was above what we could get elsewhere.

Q. Then they always met the prices, did they, of competitors?

A. No, sir; they frequently would not meet them.

Q. But they did to the extent, at least, of your ordering 60 per cent. each year?

A. No; not each year. Each case stands by itself; each contract stands by itself. Under certain conditions they might do one thing one year that they would not do another year.

MR. LINDABURY: I understood him to mean an average of 60 per cent., but not 60 per cent. each year.

MR. DICKINSON: I did not understand it this way, and I have been going on the other theory. I want to have it perfectly understood.

By MR. DICKINSON:

Q. Then do you now want us to understand that this 60 per cent. of the wire is an average of a number of years, or that it was that much for each year?

A. No, sir; it was an average of a number of years.

Q. Of how many years?

A. Five years.

Q. Does that five years include 1913?

A. Up to the 1st of December of this year; yes, sir.

Q. Then, back of that, what percentage did you purchase—

A. I presume the same percentage. The reason I say five years is because I compiled the tonnage of those years, and made a comparison of it.

Q. As a matter of fact, then, as far as you can now state, throughout this whole period of ten or twelve years, you have purchased fully 60 per cent. or more from the American Steel & Wire Company?

MR. LINDABURY: I do not think you ought to put it that way, Judge,—fully 60 per cent. each year. He has not said that.

THE WITNESS: I am not talking about each year. You asked whether it had been the case during the last ten years. I think it has been the case through five years or ten years.

By MR. DICKINSON:

Q. I will get at it in another way, then. I do not want, of course, to get it wrong. Take the year 1908: Do you know the tonnage that you bought in wire, altogether, that year?

A. No, sir; I could not tell you from my mind. I know that—during the last five years, from 1908 to 1913—that during that time 60 per cent. of the wire came from the American Steel & Wire Company.

Q. I want to go back of that. That would be 1909 to 1913, inclusive, would it not?

A. Yes.

Q. Now take 1908: Do you know anything about the percentage that year?

A. I could not answer exactly as to the percentage.

Q. Approximately?

A. I presume approximately it is about the same thing,—60 per cent.; in other words, more than half of our purchases during the last ten years have been from the American Steel & Wire Company.

Q. Then I was pretty nearly right.

MR. LINDABURY: You mean each year, don't you?

THE WITNESS: Yes.

MR. LINDABURY: All right, then.

By MR. DICKINSON:

Q. Take the year 1901: You were in business then, were you not?

A. Yes.

Q. Do you know from whom you purchased wire that year, other than the American Steel & Wire Company?

A. No, sir; I could not tell you now from whom I purchased wire twelve years ago.

Q. You know you did purchase it from the American Steel & Wire Company, do you not?

A. Yes, sir.

Q. Do you know anybody else from whom you purchased it that year?

A. No, sir; I could not tell you that with exactness. I am very positive that the same people that I am quoting to you as being wire manufacturers sold to us in that year and every year from that year down to the present time.

Q. But you said, I believe, that you did recollect that you did buy it from the American Steel & Wire Company?

A. I know that we have always bought of the American Steel & Wire Company, every year; and I know that the percentage, in my opinion, ran about as big one year as it did another.

Q. Take 1902: Just state whether you have a distinct memory from whom you bought that year. I want you to state it from memory.

A. No, sir; I cannot tell you from memory what I bought that year.

Q. Do you remember that you did buy from the American Steel & Wire Company?

A. Yes, sir.

Q. Do you remember that you bought in the year 1903, from the American Steel & Wire Company?

A. Yes, sir.

Q. And in 1904?

A. Yes, sir.

Q. And in 1905?

A. Yes, sir.

Q. And in 1906, 1907 and 1908?

A. Yes.

Q. Do you remember for either one of those years any other person from whom you now know that you did buy?

A. Not if I was to swear to it, by any particular name.

Q. You have already sworn to this whole testimony. You swear to all that you tell.

A. You ask about one particular concern. I know we have bought from the American Steel & Wire Company, but if you want me to say that I have bought of the Spencer Wire Company, for instance, in a particular year, I could not tell you; I could not swear to it.

Q. Do not get in your mind that I want you to say anything. I am trying to find out the real truth distinctly about these things, and that is all.

Speaking of quotations on wire, you said that sometimes those that were the lowest may not always be the lowest, and if they were the highest at one time they might be the lowest at another time.

MR. LINDABURY: I think he put it even stronger than that, Judge.

THE WITNESS: Yes; that a man that was the highest at one time would be apt to be the lowest the next time.

MR. DICKINSON: Very well, put it that way.

By MR. DICKINSON:

Q. Do you recollect any such instance, or are you just reasoning about that and drawing a conclusion?

A. I am reasoning about that, because of the condition in which those things go in the buying of wire. In other words, I want to be understood that we never know what a price is going to be, or who is going to be the lowest, and that they are all on the same basis when they come to us, and we do not pay any attention to who the man is; but when the bids are all in, if the bids are alike in one case, why then we would say: "Well, now, he makes the best wire, the wire we are most accustomed to, or the wire that we can get the quickest." I want to be understood that there is, to our mind, no arbitrary fixing of prices and that before they come to us the price is fixed for the particular contract. It might happen, but we do not know that it does.

Q. Without going all over that in the way you have described it there, that has occurred, has it, just as you have described it there?

A. Yes.

Q. And you do not know with what party or in what years?

A. It has always been the case. It has been in the last ten years.

Q. Every year?

A. Yes.

Q. Just as you have described it in that answer?

A. Just as I have described it.

Q. Take in one year, say 1910, for illustration, in tin plate: could you recall who made the quotations that year on any transactions of that year in which you purchased, and what relation these quotations had to each other, or what variations there were, if any? Can you give us any exact information?

A. No, sir; I could not.

Q. Would that be so generally of these various years?

A. Yes, sir; it would be so. I do not charge my mind with those things when the goods are bought and paid for. I do

not charge my mind with conditions as between one year and another.

Q. You have enough to do to manufacture your goods and sell them at a profit, I suppose?

A. Yes.

Q. Would that be so as to all these years in respect of these different products that you purchase?

A. Yes, sir.

Q. You spoke about a market price, and you used this expression: "I presume they all know what market prices are." Explain, will you please, what you meant by that?

A. I would have to know the question.

Q. It was in connection with the bids.

A. Did not Mr. Lindabury ask if I paid any attention to the market?

MR. LINDABURY: No.

By MR. DICKINSON:

Q. No. I do not think it was in that connection. I just wrote it down in this way; but I think it was in regard to bids, and with regard to people bidding; and my recollection is that you said you presumed they all knew what market prices were. Now, do you recall what you said about that?

MR. LINDABURY: I will bring it out. The witness said prices sometimes, at certain stages that he was referring to, or under certain conditions, were not very different, and that he presumed they all knew what the market prices were. That was it.

By MR. DICKINSON:

Q. Do you recall that?

A. No.

Q. If you used that expression at all, that the manufacturers knew what market prices were, what did you have in mind when you spoke of market prices?

A. Well, I might have meant market conditions, or that the manufacturers might have a base price, based upon the market conditions, which of course we had no knowledge of.

Our only knowledge of prices was obtained from the actual figures made by the manufacturers.

Q. When they bid?

A. (Continuing) Not by some printed quotations or what somebody outside of the trade may say is the price.

Q. But if the manufacturers among themselves had any such market price or base price, you did not know anything about that?

A. No, sir. I think what I was trying to tell you was this: That I knew of no arrangement between manufacturers to all quote the same price, or to all make a price so little different that it was a preconcerted arrangement.

Q. Now, Mr. Melish, while you did not know of any such thing—because I take it that a matter of that sort would not be made known to customers—I will ask you whether or not throughout this period there were times when the prices would frequently be the same from a number of those who quoted to you upon the same articles?

A. Yes; that is a fact.

Q. And did that occur during all these years at various times?

A. No, sir; it generally did not occur; but sometimes the prices of several of the leading manufacturers would be the same, and in that case we would decide whose goods we wanted.

Q. Then you had to take the price and determine which goods suited you the best?

A. Yes; and which would work the best in our machinery, and whether we could get a cash discount larger from one man than from another.

Q. And on such occasions, where you purchased in that way, you did not get any lower price by negotiation?

A. We would get no lower price; and in that case we would divide the business.

Q. You do not know how often that occurred, or in what years that occurred?

A. No, sir.

Q. But it did occur, you know?

A. It does occur, yes, every once in a while.

Q. Were these factories that you have in these various places all built by your company?

A. Yes, sir.

Q. All of them?

A. You mean—all——

Q. You said you had one at Cincinnati——

MR. LINDABURY: He named seven.

THE WITNESS: They are separate, distinct factories, all owned by us.

By MR. DICKINSON:

Q. I know; but were they all built by you?

A. No, sir.

Q. Just state when you acquired them.

A. Well, our Cincinnati factory we have been occupying for many years.

Q. Take the Dayton factory next.

A. The Dayton factory—we do not own the buildings; we rent the buildings. At Columbus——

Q. Wait a minute. Did you start that business there?

A. Yes, sir.

Q. Yourself?

A. Yes; we put up a new shop.

Q. Take the Greensburg, Indiana, factory?

A. We built that factory entirely.

Q. Take next the Trenton factory.

A. At Trenton we are in a penal institution. We have a shop in the State Penitentiary. We make no wire goods there. We make brushes, scrub brushes and all kinds of brushes there.

Q. Now, how about the factory at Baltimore?

A. That is in a penal institution.

Q. How about the factory at Cedar Keys?

A. That is our own factory, built by us; but it does not make any wire goods.

Q. Then, as a matter of fact, really you started up all these concerns yourself?

A. Yes.

Q. You did not buy any competitors out and put their factories together?

A. No, sir; we are not a trust.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Now, you were speaking of getting bids sometimes that were not the same from some of the manufacturers. Do you remember whether in any case a majority of the bids were alike, or whether it was the minority only?

A. I do not remember exactly.

Q. What is your best recollection on that subject?

A. It would generally result in different bids, and that they will all differ. Sometimes, though, they are, as I stated, the same, but to tell when, I could not.

Q. I wanted to get an idea which was the exception and which was the rule.

A. It is the exception to have them alike; it was the rule to have them different.

(Whereupon an adjournment was taken until Monday, December 8, 1913, at 10:30 o'clock a. m.)

